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The Solicitors' Journal

[Established 1857.] [Registered as a Newspaper.]

VOL. LXXIX. No. 10 [Pages 169 to 184]. **Saturday, March 9, 1935.** Published Weekly. Price One Shilling.

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The Solicitors' Journal

VOL. LXXIX. **Saturday, March 9, 1935.** No. 10

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Current Topics.

Oliver Wendell Holmes.

MEMBERS of the legal profession in this country will join with their *confrères* in the United States in mourning the loss by death of one who, for an unusually long period of years, wielded an immense influence on legal thought, first, by his writings, and secondly, by his judgments in the Supreme Court of Massachussets, and afterwards in the Supreme Court of the United States. Early he recognised that law is not a "ragbag of details," but a system of well-ordered principles which it is the function of the lawyer to apply in individual cases. In his classic work, "The Common Law," he showed in masterly fashion and in language of great charm how law should be studied, namely, by an exhaustive examination of its historical development; and a perusal of that famous work may well be said to constitute an epoch in every young lawyer's life. From his father, the author of "The Autocrat of the Breakfast Table" and its companion volumes, he inherited not only his skill and charm in authorship but also his fine play of humour, as was strikingly illustrated on one occasion at a sitting of the Supreme Court. A member of the Bar was addressing the court for the first time, his father being one of the judges. The father was a tiny shrimp of a man, while the son towered head and shoulders above the Bar. Observing this physical contrast, Mr. Justice HOLMES passed a note along the Bench with the words: "A block of the old chip."

Lord Wright on King's Bench Business.

GIVING evidence before the Royal Commission on the Dispatch of Business at Common Law last Tuesday, Lord WRIGHT referred to the "most admirable system" existing in the Chancery Division with its six judges dealing with continuous lists throughout the term. Could, the learned lord asked in effect, the same continuity be secured in the dispatch of King's Bench business in view of the diversity of the work there performed every term and the existence of the circuit system? This ought to be brought about, it was intimated, at least for the big lists. A programme should be made out definitely spacing out the work to be done and appropriating judges to it, one to the special jury list, another to the common jury and a third (or preferably two judges) to the non-jury list. If the Lord Chief Justice would agree there ought, Lord WRIGHT said, to be a committee to help him battle with the problem of preparing the programme for the following term, and seeing that it was carried out as efficiently as possible with the material available. The committee might consist of, perhaps, six judges who would work with the Lord Chief Justice, and with them there should be associated the Master of the Crown Office and the Senior Associate. The learned lord advocated a re-grouping of assize towns, and suggested that the number to which judges went on a circuit should be limited to about ten. The time to be allocated to circuit work could then be forecast with some accuracy and, in consequence, the strength of the King's Bench in London at any particular time. The setting up of district courts was condemned as entirely contrary to the whole system on which British justice has been conducted and as disastrous to its quality. District judges, it was said, would tend to become localised and parochialised. While some of the present assize towns should remain as at present, Lord WRIGHT intimated that other central assize towns could only be located after an inquiry in which it was ascertained what was the most convenient central town for a district irrespective of county boundaries. The widening of county court jurisdiction was not favoured. Without very considerable organisation the learned lord thought it would be hardly possible to increase the jurisdiction of these courts without destroying their present utility.

Coroners' Courts.

IN answer to a question recently asked in the House of Commons the Home Secretary gave the names of those who are to constitute the committee of inquiry relating to coroners' inquests. Lord WRIGHT has consented to be chairman. The names of other members of the committee are set out elsewhere in this issue. The terms of reference are, as Sir JOHN GILMOUR also indicated, "to inquire into the law and practice relating to coroners, and to report what changes, if any, are desirable and practicable." That such an inquiry is needed can hardly be doubted. The wide diversity of existing practice may be illustrated by two letters sent to *The Times* within the last few months. The first, which was commented on in our issue of 12th January, instanced the tendency, on the part of a coroner's jury's finding, to assess personal responsibility for the death in question and advocated legislative action, if necessary, to put an end to a practice calculated to prejudice a subsequent jury, whose business it might be to deal with the matter, and deter prosecutions when such proceedings may be desirable. In the second letter the writer, himself a county coroner, declares that he always makes a point of telling the jury that their sole business is to find out what is the actual cause of death, and that the question of negligence is not one which they can, or ought to, consider. This practice, it is stated, is followed by many of his brother coroners. The same writer refers to much ill-informed criticism of coroners' courts based, he thinks, upon "a mistaken idea of their true

function, which is, on the occurrence of any sudden or violent death, to make an immediate investigation open freely to the public at which anyone who has any testimony to give can be heard." Possibly the change in practice which has taken place in many of these courts may be explained by the march of events. Motoring fatalities now form a large proportion of the matters coming before coroners, and it is not unnatural that a jury, invited to apportion blame, should in appropriate circumstances be anxious to exonerate, so far as is within their power, a driver whom they consider to have been guiltless. Whether or not it is their business to do so is, of course, an entirely different matter.

Imprisonment for Debt.

In the course of a recent debate in the Upper House, Lord Arnold called attention to the Report of the Departmental Committee on imprisonment in default of payment of fines, rates, and other sums of money. Reference to this subject has only recently been made in this column, and it is not proposed to repeat the figures, or, indeed, to indicate further the recommendations contained in the Report ; but it may be noted that the number of persons imprisoned for debts of all kinds in 1932 was not far short of one-half the total number of imprisonments in England and Wales for that year. The last twenty years have seen a great reduction in imprisonments for non-payment of fines, the figure of 11,244 for the year 1932 comparing very favourably with 75,000—the approximate number before the Criminal Justice Administration Act, 1914, to the provisions of which the reduction is largely attributable. The Earl of Feversham indicated that over 97 per cent. of the (nearly) half a million fines imposed by courts of summary jurisdiction were paid, and adverted to the fact that knowledge that the alternative to payment is imprisonment is a potent factor in securing payment. It was also intimated that the Committee's proposals, so far as they involve amendment of the law, had been noted for careful and sympathetic consideration when an opportunity for legislation arose. Meanwhile the Home Secretary is considering the issue of a general circular to all justices to bring to their notice suggestions calculated to reduce the number of men sent to prison and to confine that penalty to cases where it is unavoidable, if the authority of the court is to be upheld. In reply to Lord Merrivale, who asked whether the circular could be issued as a White Paper (in which form it would obtain publicity), the Earl of Feversham, while instancing the general practice, which is to send circulars to the clerk of the court, indicated that the suggestion would be placed before the Home Secretary.

The Housing Bill.

Among matters of interest arising in the committee stage of the Housing Bill should be mentioned a proposed amendment to the definition of " suitable alternative accommodation " in cl. 11, which means a dwelling-house in which the occupier and his family can live without causing it to be overcrowded, " being either a house provided by the local authority or, if not so provided, a house which the local authority certify to be suitable to the needs of the occupier and his family as respects security of tenure and proximity to place of work and to be suitable in relation to his means." An amendment was moved which would have withdrawn the power of final certification from local authorities and given persons dissatisfied with alternative accommodation an opportunity of appealing to a court of law. The suitability of premises, it was urged, was a question of fact which ought to be decided by the county court and not by a local authority which was indirectly a party to the dispute. The Minister of Health denied that the Bill infringed judicial rights. The matter was not a judicial one but a fact arising out of the administration of national housing policy. The acceptance of the amendment (which was negatived by twenty-two votes to sixteen) would render the Bill impracticable in operation. Sir Hilton Young will, however, move an amendment on the report stage requiring a local authority to give a certificate as to suitable alternative accommodation in respect of their own as well as of privately owned houses. Clause 12 of the Bill, which requires local authorities for large towns to secure re-development in the circumstances there stated, applied as drafted to London, county boroughs, and non-county boroughs and urban districts with a population of 50,000 or more at the last census. The scope of the clause has been widened so as to apply to all urban district authorities although not, as was suggested, to rural authorities also. One of the circumstances prescribed for the operation of the clause is that the houses which are overcrowded, unfit, etc. (see cl. 12, sub-cl. (1) (*b*)), constitute in the aggregate one-half or more of the working-class houses in the area. An amendment has now been accepted whereby one-third will be substituted for one-half in the foregoing passage. Having regard to the provisions of cl. 13 which deals with re-development by local authorities, it was moved that owners themselves should be allowed an option to carry on such work themselves if they were prepared to do so within reasonable time and to the satisfaction of the Minister. Such is provided for by cl. 51, but the fact that the decision whether the work shall be performed by a private owner or the authority, and apparently rests with the latter, raises a point which Sir Hilton said he would consider.

Housing Progress in Scotland.

According to a recent announcement of the Department of Health for Scotland, the total number of houses erected in Scotland under all state-aided schemes after the end of last January, was 184,449, when approval had been obtained for the building of 23,766 more, of which 16,734 were under construction, tenders having been approved for the remaining 7,032. There are in addition 17,101 houses which, up to the end of last year, have been improved or reconstructed with state assistance under the Housing (Rural Workers) Acts, 1926 and 1931. *The Times*, to which we are indebted for the foregoing figures, alludes to the statement made by the Secretary of State for Scotland during the recent debate on the second reading of the Housing Bill, to the effect that some 40 per cent. of the houses, which local authorities estimated were required to replace the insanitary houses in the period 1934–8, have been completed or are under construction or are about to be begun.

Model Town and Country Planning Clauses.

For the guidance of local authorities who are preparing schemes under the Town and Country Planning Act, 1932, a set of model clauses with explanatory notes has recently been issued by the Minister of Health (Stationery Office, 2s. net). Provisional clauses had already been prepared by the Ministry and form the basis of the new series which have been drafted in the light of recommendations made by the Advisory Committee on Town and Country Planning set up by the Minister. The new clauses contain provisions relating to the protection of owners of existing buildings, the fuller preservation of existing amenities and the prevention of danger or injury to health on the development for building purposes of land not equipped with the necessary public services. Practically all matters which have to be taken into consideration by the planning authority are covered by the clauses except those arising from special local characteristics. Such matters as arise in the application of the Act are to be dealt with by the local authority which may submit supplementary clauses prepared to meet their special needs.

Road Safety.

Perhaps one of the most potent factors in securing safety in motoring at night is the elimination of headlight dazzle, and thus the question of the desirability of legislative action

naturally arises. Readers interested in the problem will welcome the report by the Department of Scientific and Industrial Research, published in the early part of the present month by the Stationery Office (1s. 6d. net), and entitled "The Elimination of Glare from Motor-Car Headlights." The report is naturally of a highly scientific character and carries us into realms which are no concern of us here, but the difficulties attendant upon legislative control will be fully appreciated by those who peruse the publication. It is not considered likely that an entirely new anti-glare system will be forthcoming to solve the problem. "We may expect," the report says, "progress to be made by the gradual recognition of one of the existing types of headlight beam as the most satisfactory compromise, assuming it to be adopted universally, but allowing for the fact that precise identity in the headlights of different cars cannot be attained." Passing to another subject intimately connected with the question of road safety, it appears from that the 30 miles an hour speed limit prescribed for built-up areas, by s. 1 of the Road Traffic Act, 1934, will not in general apply to important newly constructed by-pass and arterial roads. The Minister of Transport has recently addressed a letter to all highway authorities indicating in appendices where the limit will and will not apply in roads of this character. The hope is expressed that the authorities will provide street lighting in short sections of road joining other portions automatically within the terms of the statute by the proximity of their street lamps. It was recently intimated in answer to a question in the House of Commons that the Commissioner of Police of the Metropolis proposes in good time before the coming into operation of the speed limit to issue a notice to the public, through the press and the B.B.C., explaining the methods of enforcement which the police intend to adopt with a view to securing compliance with the law. It appears that the maxim *ignorantia legis haud excusat* will apply with a greater degree of reasonableness than is often the case, but the amazing ignorance displayed by some applicants for posts in connection with the new driving tests (many of whom had never even heard of the Highway Code) suggests that the existence of the speed limit will in many cases only be brought home by measures taken to enforce it. It is satisfactory to learn in connection with another subject, to which reference has frequently been made in this column, that a Bill is in active preparation to preclude further spoliation of the countryside by ribbon development, and is to be introduced at the earliest possible opportunity.

Work and Labour or Sale of Goods.

In view of the provisions of s. 4 of the Sale of Goods Act, 1893, that "a contract for the sale of any goods of the value of ten pounds or upwards shall not be enforceable by action unless the buyer shall accept part of the goods so sold, and actually receive the same, or give something in earnest to bind the contract, or in part payment, or unless some note or memorandum in writing of the contract be made and signed by the party to be charged or his agent in that behalf," it is of the utmost importance to decide whether in any particular case the contract, whatever it is, comes within the category of contracts for the sale of goods, or whether it is one for work and labour. If it is the former, it cannot be enforced unless one or other of the conditions of s. 4 is complied with; if the latter, these conditions have no application and the person complaining of breach of the contract cannot be met *in limine* by the objection that the statutory formalities have not been satisfied. In the case of *Robinson* v. *Graves*, decided last week by the Court of Appeal, the question was whether a contract whereby an artist was commissioned to paint a portrait was a contract for the sale of goods, as if the contract had been allowed to be carried out it would have resulted in the delivery of a picture which some might call a chattel, or whether it was a contract for work and labour, and could not therefore be repudiated with impunity by the commissioning employer on the ground that there was no note or memorandum in writing. The Court held that the case came within the latter category. This decision will, we believe, be generally welcomed as not only good sense but as equally sound in law. The question involved has been the subject of much discussion by text-writers and others, and apparently the view most generally taken has been that on the facts predicated the subject was a contract for the sale of an article and thus within the ambit of s. 4; but happily there were various *dicta* pointing the other way and to these the Court of Appeal gave the weight which attached to them not only by reason of the high judicial authority of those who gave them expression, but as being more in accordance with the real intention of the parties. "If," as Lord Justice Greer said, "the substance of the contract was that skill and labour had to be exercised for the production of the article and that it was ancillary to that that there would be some material in addition to the skill exercised in producing the article, that would be a contract for work and labour." The fact that such a question and others of the like nature come so frequently before the courts is surely another reason why that anachronistic provision contained in s. 4 might with great advantage be relegated to the law's lumber room.

Recent Decisions.

Among recent decisions should be noted that of the House of Lords in *Powell* v. *Streatham Manor Nursing Home* (reported at p. 179 of this issue), which restored a judgment of Horridge, J., awarding damages for personal injury sustained by the alleged negligence of the respondents' servants or agents. The substantial question of law raised on appeal concerned the functions of the Court of Appeal in the case of an appeal on a pure question of fact. The Lord Chancellor intimated that it was hardly possible to conceive a case where a judge of first instance was in a better position than the Court of Appeal to judge where the truth lay than the present case.

In *Re Jean Crichton, an Infant* (p. 181 of this issue), the court allowed an appeal from an order of Atkinson, J., who refused on the return of a writ of *habeas corpus* to make an order for the return of an infant daughter, aged eleven, to her mother. The governing consideration leading the learned judge last named to his decision were statements made by the child to him. These the court had abstained from ascertaining, but they could not, it was intimated, have been seriously damaging to the mother as it had also been ordered that the child should spend her holidays with her mother, in the hope that she would come to have some affection for her.

The report of the Court of Appeal in *Robinson* v. *Graves* (referred to above) appears at p. 180 of this issue.

Reference should also be made to the decision of Crossman, J., in *Re Midland (Amalgamated) District (Coal Mines) Scheme*, 1930: *James Oakes & Co. (Riddings Collieries), Ltd.* v. *Executive Board (The Times*, 5th March). The matter came before the court as an appeal from an award in the form of a case stated by an arbitrator under the Coal Mines Act, 1930, and the Midland Scheme (*supra*). The questions of law and fact cannot readily be condensed, and readers must therefore be referred to the report.

Finally, mention should be made of the decision of the Railway and Canal Commission in *H.M. Postmaster-General* v. *Southgate Corporation* (p. 181 of this issue). The dispute, which arose out of the corporation's objection to the erection of telegraph posts (see s. 3 of the Telegraph Act, 1878), was referred to a deputy county court judge, who upheld the objections. The Railway and Canal Commission reversed the decision, MacKinnon, J., intimating that the corporation's objection must, if it were to be upheld, be based on the ground of amenity or on something which affected them as guardians of the streets.

The Statute Law Committee of Northern Ireland.

A "CURRENT TOPIC" in our issue of 23rd February (79 SOL. J. 134), referred to various judicial strictures upon the imperfect framing of statutes, including the comment of an American judge that "no man's life, liberty or property are safe while the Legislature is in session." That *dictum* may be taken as referring to various dangers. But there is an added peril which it does not touch—the difficulty of making and keeping the law accessible to the public after it is enacted. It has been aptly said that "those who have to administer the law are informed of the Acts of the Legislature, whilst those who have to obey it have to find out its terms by experience and the daily papers."

A Statute Law Committee was first set up by Lord Cairns in the year 1868, and has done as much as such a body could do, by way of editions of Revised Statutes, the annual Chronological Table and Index of the Statutes, and similar publications dealing with the Statutory Rules and Orders. These tasks, at their inception, must have involved an arduous survey of unedited matter. In bulk, that matter was far greater than the matter which presented itself for editing as respects Northern Ireland; but in some ways the Northern Ireland work was more intricate. When the Parliament and Government of Northern Ireland were first constituted, it was not easy to ascertain the application to that country of a statute passed by the Parliament of the United Kingdom before the transfer of powers. The actual text of the enactment had to be read together with the Government of Ireland Act, the Orders in Council made under that Act, and any repealing or amending enactments of the Parliament of Northern Ireland. The existing Statutory Rules and Orders had to be subjected to a like process before their effect could be definitely stated. The Subject-Indexes brought out under the direction of the Statute Law Committee in London afforded little help in this process, because they ceased to contain any entries as to matters within the powers of the Northern Ireland Parliament and Government. Happily, a condition of things which would—if neglected—have caused increasing confusion has gradually been remedied, chiefly under the direction of the Statute Law Committee of Northern Ireland.

The composition of that committee is designed so as to reproduce, as nearly as local circumstances allow, the effective elements of the body initiated by Lord Cairns. The committee is appointed by the Governor, upon the advice of the Finance Minister, and consists of the Lord Chief Justice, the Attorney-General, the Parliamentary Counsel, the Controller of H.M. Stationery Office, the principal Assistant Secretary of the Ministry of Finance, the Counsel to the Speakers of the two Houses of Parliament in Northern Ireland, and the Clerk of the Parliaments. Under the superintendence of this committee annual volumes of the Northern Ireland Statutes and Statutory Rules and Orders are edited for publication by expert legal men. Each volume has a subject-index, and the volume of statutes includes a table showing the effect of the year's legislation upon previous statutes (whether passed at Belfast, or being "existing" law inherited from Westminster). A more important achievement was the bringing out of a "Chronological Table and Index of the Statutes Affecting Northern Ireland," which is in its second edition, and will shortly appear in a third. This work is arranged on the same principles as the two-volume "Brown Book" relating to Westminster Acts. It covers surviving Acts of the pre-Union Parliament of Ireland and "existing" law of the United Kingdom Parliament, affecting matters within Northern Ireland jurisdiction, and the Statutes of the Northern Ireland Parliament. As regards statutes, there is one task which the committee has not yet essayed, that of publishing "Revised Statutes" as a text separate from the "Statutes At Large." There is much to be said both for and against such a publication. On the one hand, dead matter ought to be cleared away. On the other hand, revised statutes are of little use for legal interpretation, because the repealed law throws light on the later legislation. Also, revision is a slow process, and the earlier volumes of a particular edition are apt to be out of date by the time when the later ones appear. A permanent Commission, which would combine revision and consolidation and submit Revised Statutes to Parliament for express enactment, is in theory, admirable, but in practice would prove expensive for a small area.

In the meantime, the Statute Law Committee has directed its attention to an overhaul of Statutory Rules and Orders. The hardest part of this work has now been accomplished under its supervision by joint editors, namely, the "Index to the Statutory Rules and Orders in force in Northern Ireland." This includes exercises of statutory power by the United Kingdom Departments from which powers were transferred to the Government of Northern Ireland. It also includes all delegated legislation of Northern Ireland Departments from the year 1921 till 31st August, 1930. A second and further editions, keeping the work up to date, will follow, so that Northern Ireland will have something fully corresponding to the triennial "Green Book" relating to Statutory Rules and Orders, as well as the parallel to the "Brown Book" already mentioned. Thus, the inconspicuous but arduous task of reducing chaos to order has progressed. Perhaps the influence of Lord Cairns is at work; he was "a lawyer from Belfast" when he made his mark at Westminster.

Land Registration and Building Estates.

IN order to facilitate the registration of and searches of the register relating to building estates the Chief Land Registrar in a "Practice Leaflet" recently issued, makes some valuable suggestions which should be of great use to solicitors who are concerned in the dealing with such estates. The leaflet, in the first place, states that before making application for the first registration of an estate, intended to be laid out in building plots, it is desirable to communicate with the Registry, when, if necessary, special arrangements to meet the special needs of the estate and facilitate sales of plots can be made. If a lay-out plan is submitted, the estate will be cut up into convenient blocks and a separate land certificate issued for each block. In forwarding the plan the Registrar should be informed whether the position of the proposed roads has been approved by the local authority. The advantage of this arrangement is obvious, and will reduce the number of transfers of part affecting one land certificate to the lowest possible. Suggestions are made with regard to the lay-out plans and the definition of boundaries, fences, etc. An important further proposal is that the vendors should co-operate with the Registry in preventing relays on sales of plots by the estate surveyor keeping in touch with the Registry (Telephone—Holborn 4451, Extension 93), informing it when fresh roads are opened, new fences or boundaries erected or defined, and so forth, so that all the development as it proceeds may be at once reproduced on the Registry plans. It is hardly necessary to emphasise the value of such an arrangement, and the fact that it is proposed by the Registrar is striking evidence of the anxiety of the department to assist in every way possible in making registration in such cases as simple and expeditious as may be. It is pointed out that when transferring plots which are not shown on the vendor's land certificate as being fenced (that is not bounded by firm lines on the plan), it is essential that the plans or transfers of part of a block should not only give the figured dimensions of the plots themselves, but also sufficient figured dimensions, measured on a

horizontal plane, to tie the particular plots to the existing physical features shown on the land certificate plan. That is an important point to bear in mind. How often it happens that a plan of a plot is not linked up with any well-defined point and the plot not capable of identification further than that it is in a named road and bears a number which may or may not enable an accurate placing of the plot to be made! In fact, apart from the Land Registry's plans on conveyances (not so much now, perhaps, but very frequently until recent years) are prone to be nothing more than a rectangular strip coloured pink shown as adjoining a named road, but which might, for anything that appears on the plan, be anywhere in that road and on either side of it. Another defect only too often met with is the absence of any compass pointer, an omission which is really inexcusable.

In the leaflet to which reference has been made it is suggested that all the plans submitted to the Registry should be prepared by the vendor's surveyor, otherwise discrepancies on the plans and the facts on the ground (due sometimes to sharp slopes, sagging measurement tapes, etc.) tend to be produced in increasing measure, and to cause serious disputes as to boundaries over the whole area when the last plots come to be sold. Stress is also laid upon the advisability of erecting substantial boundary posts on unfenced plots as soon as contracts for sale are made. Such posts should be shown on the transfer plans and in all cases should be placed accurately in accordance with the figured lineal dimensions on the plan.

There are some additional provisions made to facilitate searches. Generally, where an estate is being rapidly developed, the land certificate is deposited at the Registry for registration of sales of plots and is not available in the hands of the vendor for inspection by purchasers for verification of the abstract or copy supplied to them. To remove this difficulty the Registry is prepared on the first registration of such estates and frequently after first registration, if no plots have been sold, to issue to the vendor at cost price as many office copies of the register and plan as there are plots to be sold, thus saving the vendors the trouble and expense of preparing copies of the subsisting entries in the register. Instead, the vendors will be able to send an office copy of these entries to the purchasers, who in turn will be saved the trouble and expense of having to verify the copies, as under s. 113 of the L.R.A., 1925, such office copies are admissible in evidence in all matters between all parties to the same extent as the originals. It then only remains for the purchasers to satisfy themselves that since the date of the issue of the office copies by the Registry no entry or application adverse to them has been made to the Registry, which can be done by applying for an official search by post in Form 94, the certificate of the result of which is issued without fee and gives priority to the applicant until the morning of the third day after the date of the issue of the certificate.

There can be no doubt that these proposals or suggestions will be found most helpful, especially as they are elastic, and in any special case special arrangements can be made, and the solicitors or surveyors concerned can keep in constant touch with the Registry, making such alterations or modifications in the scheme of development adopted as may from time to time be deemed expedient.

Finally, the leaflet again draws attention to the advantages of the official search over the personal search which is rendered so inconvenient by reason of the relevant papers being in use in the Registry. Apparently the Chief Land Registrar has abandoned the practice of doing away with personal searches altogether, perhaps because it was not clear that he had power to insist upon that. However that may be, there can be no question of the great advantages of an official search as affording protection not only to vendors but also to their solicitors.

It is thought that the practice adumbrated in the leaflet to which attention is called in this article will do much to obviate many of the vexatious delays and inconveniences in connection with registration of building estates and the plots as sold and searches in the Registry. At any rate, it is a step forward and will be welcomed by the profession as displaying a disposition of the Registry to assist in removing difficulties and meeting the reasonable requirements of those whose duty it is to make use of it.

Costs.

PROBATE COSTS—(*continued*).

THE solicitors' costs for obtaining letters of administration follow somewhat the form for obtaining probate, but there are necessarily some modifications.

As in the case of the costs for probate, the bill will commence with the item of " Instructions "'—in this case, " Instructions for Administration "—and the fee normally allowed is 6s. 8d., but it may be increased if the circumstances so warrant. It must be borne in mind that this fee is intended to cover all attendances on and correspondence with the clients, obtaining particulars of the deceased, and the names and addresses of the party or the parties seeking to obtain a grant. If the attendances are unduly long or numerous, or the correspondence is heavier than would normally be necessary, then something more than 6s. 8d. would be allowed.

There is no will or other document to peruse, and the next charge in the bill is for the oath of the administrators. The fee is fixed by scale, but it varies somewhat from the scale for the oath of the executors. Thus, the fee where the effects are sworn under £5 is 2s. 6d., under £20, 3s. 4d., under £50 5s., under £100, 6s. 8d., under £200, 10s., £200 and over, 13s. 4d. This fee includes drawing and engrossing, and attending the administrators being sworn. Notice that where there is more than one administrator, and the oath is not sworn by all at the same time, then the solicitor will be allowed for each additional attendance, where the effects are sworn under £20, 3s. 4d., under £100, 5s., over £100, 10s.

The work entailed in collecting particulars of the assets and debts of the deceased will be charged in detail, letters being charged at 3s. 6d. and attendances at 6s. 8d. The time occupied in making necessary calculations will be charged in detail, and where a professional person is reasonably employed to prepare the particulars, or to ascertain the values, then his fees may be charged as a disbursement. Provision is made for a scale charge in respect of the inland revenue affidavit, to cover drawing, engrossing and attending the administrator on his swearing the affidavit. The same rule mentioned above will apply where there are two or more administrators, and they are not all sworn at the same time. The scale fee for the inland revenue affidavit is the same as in the case of a grant of probate, namely where the effects are sworn under £20, 2s. 6d., under £50, 5s., under £200, 6s. 8d., £200 and over, 10s. If, however, the affidavit exceeds five folios in length, then a charge of 1s. 4d. per folio may be made for drawing and engrossing the folios in *excess* of five. Similarly, where there are schedules to be attached to the affidavit, a charge of 1s. 4d. per folio may be made for drawing and copying these.

The next item in the bill of costs will be the charge for preparing and copying the administrator's bond, and the fee for this will be 1s. 8d. where the effects are sworn under £20, 3s. 4d. under £50, 5s. under £100, and 6s. 8d. where sworn at £100 and over.

Unlike the two preceding scale fees, however, there will be allowed 6s. 8d. for attending the sureties on the execution of the bond. Notice that where the effects are sworn over £100 a 5s. stamp will have to be put on the bond. There will, of course, be the commissioners' fees to be charged in respect of the execution of the affidavits and the bond.

It sometimes happens that a guarantee society enters into the bond, and in such a case there will be charged, in addition to the above, the costs of preparing an affidavit of justification. A fee of 6s. 8d. should be charged as instructions, unless the circumstances warrant a higher fee, whilst the drawing of the affidavit will be charged at 1s. per folio of seventy-two words, and engrossing at 4d. per folio. A fee of 6s. 8d. will be allowed for attending on the official who swears the affidavit. The costs for the necessary attendances on and correspondence with the society to arrange for the bond will also be allowed.

We then come to the charges for obtaining the letters of administration, and these are covered by the scale fees. The fees allowed under the item "letters of administration" are somewhat higher than the similar fees for "probate under seal," and the scale varies from 1s. where the effects are sworn under £5, 3s. under £100, £2 5s. under £1,000, £5 5s. under £5,000, £7 2s. 6d. under £10,000, to £53 18s. 3d. under £500,000. These fees are merely illustrative, and there are many intermediate amounts in the scale, which comprises some forty-six items. In addition to this scale fee, there is also the extracting fee and the clerk's fee. These do not vary much from the fees in the probate scale, and the former is 1s. where the effects are sworn under £5, 3s. 4d. under £20, 4s. 8d. under £50, 6s. 8d. under £1,500, and 13s. 4d. where sworn at £1,500 or more. The clerk's fee is as follows: Nothing where the effects are sworn under £5, 1s. under £20, 2s. under £800, 5s. under £2,000, 7s. 6d. under £70,000, and £1 1s. where £70,000 and over.

In addition the necessary disbursements should be charged in the bill, but it will be remembered that the premium on the guarantee society's bond is a cash account item, as also is the estate duty. It will again be observed that the scale fees are chargeable on the gross estate, whilst the court fees are calculated on the net estate. The solicitor's costs, whether scale or otherwise, may be increased by 20 per cent. by virtue of the Non-Contentious Probate Rule, 1932.

Observe also that the scale fees are intended to cover all the work involved in paying the duty, lodging the documents, and obtaining the letters of administration. It may be that some additional work has become necessary since these scales were prepared, but notwithstanding this, it is considered that the scales are intended to cover the whole of the work done by the solicitor in obtaining the grant, and that if it was intended that he should receive additional remuneration for such extra work, then the Rules would have said so, or been appropriately amended.

Company Law and Practice.

Disclosure by Directors of Interest in Contracts.

THE question of the extent to which directors can safely enter into contracts with their company or have private interests in contracts to which the company is a party is one of considerable practical importance, and the subject of a fair amount of authority. For the purposes of this article I think it will be convenient to consider the question from three points of view: first, the general rule of equity; secondly, how far the articles of a company can qualify that general rule; and thirdly, the new statutory provisions contained in s. 149 of the Companies Act, 1929.

I do not think we can do better than take a statement of the general equitable rule from judgments in the case of *Imperial Mercantile Credit Association* v. *Coleman*, L.R. 6 Ch. 558. At p. 563 n. Malins, V.-C., says that "it is the duty of directors of companies to use their best exertions for the benefit of those whose interests are committed to their charge, and they are bound to disregard their own private interests whenever a regard to them conflicts with the proper discharge of such duty." From this follows the principle as stated by Lord Hatherley at p. 566, "that a person holding a fiduciary position with regard to a company cannot obtain for himself a benefit derived from the employment of the funds of the company in any matter in which he, the director, may happen to be engaged," and the reason for the rule is later enunciated by the same judge: "The company have a right to the services of their directors, whom they remunerate by considerable payments; they have a right to their entire services, they have a right to the voice of every director and to the advice of every director in giving his opinion upon matters which are brought before the board for consideration; and the general rule that no trustee can derive any benefit from dealing with those funds of which he is a trustee applies with still greater force to the state of things in which the interest of the trustee deprives the company of the benefit of his advice and assistance."

The result is that in the absence of anything to qualify the general rule, a director cannot enter into a contract with his company or have a financial interest in his company's contracts—such, for example, as would arise where the other party to the contract is a firm in which he is a partner or a company in which he holds shares, or where the other contracting party pays him a commission on the contract—and retain the benefit coming to him from the contract without disclosing fully the nature and amount of his interest and obtaining the company's assent. If he fails to do this he must account to the company for his profit.

One point about the application of the rule has recently caused me some concern, and I am not sure that I have arrived at a satisfactory answer. The rule is easy enough to apply to cases where the company is proposing to enter into a contract in which a director knows he will have an interest; and those are the cases of which numerous examples are to be found in the reports. But what of the case where A has a contract with X company, or is a shareholder in Y company which has a contract with X company, and A is invited to and does become a director of X company? Must he, under the general rule, disclose his interest in all current contracts of X company? Certainly, it would be much safer for him to do so; but if he does not do so, must he account to X company for his profits arising directly or indirectly out of the contract? I have not been able to discover any precise authority on the point, but as a matter of principle the answer seems to me to be "No." Such a case would not appear to fall within the principle of the rule we are discussing; whether A discloses his interest or not, the company is bound by its current contract and loses nothing by A's concealment. The contract was entered into when A was not a member of the board of directors, so that there was no question of the company being deprived of the independent and disinterested advice and assistance of the directors; and there is no real conflict of duty and interest, because the contract, being in existence and binding, there is no duty to be fulfilled by A *qua* director of the company in connection with the contract. As I have said, there appears to be no authority in point, but the view I have put forward seems to find some support in the decision in *Albion Steel and Wire Co.* v. *Martin*, 1 Ch. D. 580, where it was held that the duty to account did not apply in the case of contracts entered into before the company was formed between a person who was to be a director of the company and the owners of the business which the company was to purchase: see also *Re Cape Breton Co.*, 29 Ch. D. 795. But, of course, there might well arise circumstances in which it would be incumbent on a director to disclose his interest in contracts current at the date when he became a director, e.g., if the contract came up before the board of which he had become a member for variation or renewal; and if he did not do so he would clearly be liable to account for benefits accruing to him from the contract if renewed or varied.

So much for the general equitable principle as to disclosure and accounting for secret profits. We now turn to the question of the effect of the articles on the general rule. It is undoubtedly competent to a company by its articles to stipulate that this is a benefit which they do not desire because a greater benefit is apprehended in that directors may be able to advance the company's interests by their private connections and are certainly more likely to do so if they are allowed a commission on business introduced. Hence the very common article which permits a director to contract with the company and to retain a profit arising out of a contract in which he is interested, provided he discloses his interest to the board of directors, and (often) provided he does not vote. The relevant article very often amounts to little more than a re-statement of the ordinary equitable rule, and, of course, if the conditions as to disclosure and not voting are not complied with the effect is to bring that rule into operation and leave the director accountable as if there had been no such article.

Not only may the articles expressly permit directors to be interested personally in the company's contracts, but it may also be possible to infer such a permission. Thus, in *Imperial Mercantile Credit Association* v. *Coleman, supra,* the articles simply provided that a director should vacate his office if he participated in the profits of any work done for the company without declaring his interest at a meeting of the directors. Lord Hatherley held that this clearly contemplated that a director might be interested in the concerns of the company, and so (though the article did not *expressly* say so) he might retain his interest in a contract. The decision was reversed in the House of Lords (L.R. 6 H.L. 189), but only on the facts, viz., that there had not been a sufficiently full disclosure; and it was followed by the Court of appeal in *Costa Rica Railway Co. Ltd.* v. *Forwood* [1901] 1 Ch. 746.

Finally we come to the provisions of s. 149 of the Companies Act, 1929. Now that section does not, I think, affect the operation of the general equitable rule (qualified, it may be, by the articles) or add to the liability of a director to account for secret profits. It imposes a statutory obligation, failure to fulfil which exposes the delinquent to a fine not exceeding £100, but nothing in the section " shall be taken to prejudice the operation of any rule of law restricting directors of a company from having any interest in contracts with the company." But if it does not extend the duty to account it certainly appears to me to extend the duty to disclose. The words of sub-s. (1) are that " it shall be the duty of a director of a company who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the company to declare the nature of his interest at a meeting of the directors of the company." Those words are, I think, so general as to cover the case which I have suggested does not fall within the equitable rule, viz., of a person who is interested in a current contract of the company at the time when he is appointed a director. It is interesting to note, however, that sub-s. (2), which provides for the time when disclosure is to be made, does not cover this case. Its wording is :—

> " In the case of a proposed contract the declaration required by this section to be made by a director shall be made at the meeting of the directors at which the question of entering into the contract is first taken into consideration, or if the director was not at the date of that meeting interested in the proposed contract, at the next meeting of the directors held after he became so interested, and in a case where the director becomes interested in a contract after it is made, the said declaration shall be made at the first meeting of the directors held after the director becomes so interested."

It will be seen that that sub-section contemplates the case of a person who is a director being or becoming interested in a contract or a proposed contract : not the case of a person already interested becoming a director. Nevertheless I do not think this can affect the construction of sub-s. (1), which is in very wide terms. The result appears to be that a person becoming a director must discover in what existing contracts of the company he is interested, directly or indirectly, and disclose his interest. I cannot but think that this is placing a heavy burden on the shoulders of intending directors, and it is permissible to wonder, especially in view of the wording of sub-s. (2), whether it was contemplated. In practice I suppose that failure to comply with the requirements of the section (if I have rightly construed it) must be a matter of every-day occurrence. Such failure will expose the director to the statutory penalty ; but it still seems to me that in the particular case I have mentioned he will not be liable to the equitable liability to account.

A Conveyancer's Diary.

Advertisements for Claimants by Personal Representatives.

I was very interested in the order made by Farwell, J., in *Re Letherbrow : Hopp* v. *Dean* [1935] W.N. 34.

The question raised was with regard to the protection to personal representatives and trustees afforded by s. 27 of the T.A., 1925.

I wrote on this subject some time ago and had some controversy with a contributor about it (see 76 Sol. J. 354 ; 77 Sol. J. 775, 841 ; 78 Sol. J. 7).

I expressed the view that s. 27 was " a snare for the unwary," and that it could not be relied upon to give the protection which it purported to afford.

I may remind the reader that the section provides that trustees or personal representatives may give notice by advertisement in the *Gazette* " and such other like notices, including notices elsewhere than in England and Wales, as would, in any special case, have been directed by a court of competent jurisdiction in an action for administration " of their intention to distribute the estate, and enacts that the trustees or personal representatives may proceed after two months to make a distribution having regard only to the claims of which they shall have had notice, and protects them against any claims of which they shall not have had notice.

The points which I took in my former articles were that the trustees or personal representatives could not know when any case was a " special case," and that it was not possible for them to say what notices a court of competent jurisdiction would have directed in an administration action. The only way of finding out what notices the court would have directed is to go to the court to inquire. That, shortly, was the contention which I advanced. Now there is judicial authority showing that the view which I expressed was right.

The facts in *Re Letherbrow* were that a testator died on 16th September, 1933, having by his will dated 19th August, 1922, devised and bequeathed his residuary estate to a sister and appointed her sole executrix. The sister predeceased him and there was consequently an intestacy as to residue.

Letters of administration were granted.

The next of kin of the testator were numerous, and the administrator issued certain advertisements in the usual form and some claims were received.

The administrator issued a summons to which those who had made claims were made defendants, asking whether he was at liberty to distribute the estate among the claimants, or, in the alternative, that directions should be given to the plaintiff as to what notices (whether by advertisement or otherwise) or inquiries (beyond such notices or inquiries as had already been given or made) should be given or made by him before any distribution by him of the testator's estate, and, if and so far as necessary, an inquiry in the usual form as to persons entitled to the property of the testator as to which he died intestate.

On the hearing of the summons it was stated that the plaintiff was prepared to distribute the estate amongst the persons of whose claims he had received notice in reply to the notices by advertisement already issued, provided that he could be assured that such notices were sufficient to afford him the protection given by s. 27 of the T.A., 1925.

Farwell, J., said that the form of the inquiry was without precedent, but he acceded to the administrator's request and made an order in the following form :—

> " An inquiry what (if any) further notices, whether by advertisement or otherwise beyond such notices as have already been given, would be directed by the court in an action for administration of the residuary estate of the testator with a view to the distribution of such residuary estate."

So now it has been judicially recognised that s. 27 of the T.A. is not a sufficient protection to trustees and executors, and there is a precedent for an application to the court such as I suggested ought to be made.

I have been told, also, of a case this week where the court was asked to direct an inquiry as to who were the persons entitled under the A.E.A., 1925, to the estate of a deceased intestate. Instead of making an order for such an inquiry the court made an order in the form of the order in *Re Letherbrow*. The learned judge pointed out that it was more convenient to make the order in that form because it enabled him to dispose of the matter there and then. An order for payment of costs out of the estate was made, and it was left for the Master in Chambers to say what notices ought to be given, and upon such notices being issued the trustees would be protected and the case would not have to go back to the judge.

It appears, therefore, that the order as in *Re Letherbrow* will become usual instead of an order directing " an inquiry as to kin," as it is generally called.

At any rate my readers will note that s. 27 of the T.A., 1925, is a broken reed.

Words of Limitation in Settlements of Equitable Estate.

The case of *Re Arden: Short* v. *Arden* (1935), 79 Sol. J. 68, is a reminder of a point that was for long the subject of some doubt and of conflicting decisions.

The question involved was whether words of limitation were required to transfer an equitable estate in fee simple. The earlier textbook writers were not very clear about it.

I need only refer to one or two of the decisions to show the conflict of judicial opinion.

In *Re Whiston's Settlement* [1894] 1 Ch. 661, Chitty, J., laid it down quite clearly that an equitable limitation by way of trust executed has the same construction as a legal limitation.

In that case the legal estate was vested in mortgagees and a settlement of the equity of redemption contained a series of formal limitations in favour of the settlor's wife, the settlor and their children ; but in the limitation to the children the words " heirs " or " fee simple " were not used.

It was held that the children took life interests only.

That was followed in other cases, e.g., in *Re Irwin* [1904] 2 Ch. 752.

On the other hand there is *Re Tringham* [1904] 2 Ch. 487.

There, by a settlement, hereditaments were limited in trust for M for life, and after her death for her husband and after the death of the survivor in trust for the children of the marriage equally as tenants in common without any words of inheritance with remainders over in default of children.

Joyce, J., found that there was a sufficient intention on the face of the instrument that the children should take in fee simple and not for life only, and held that they did so.

That, of course, was in conflict with *Re Whiston's Settlement*, for in both cases the trusts were executed. However, in the latter case the learned judge said that he did not find any sufficient indication of intention that the children were to take in fee simple, but he does not seem to have considered that the question of intention was material.

The law was therefore in a state of uncertainty until the decision of the Court of Appeal in *Re Bostock's Settlement : Norrish* v. *Bostock* [1921] 2 Ch. 469.

By a marriage settlement freeholds (subject to mortgages) were conveyed to trustees in fee simple to the use of the wife and husband for successive life interests, and after the decease of the survivor " in trust for the child or children of the husband " now born or hereafter to be born who shall attain the age of twenty-one years and if more than one in equal shares as tenants in common, and if there shall be no such child then in trust for the right heirs of the husband. Policies of assurance and leaseholds were also assigned upon similar trusts so far as the children were concerned. The settlement contained an advancement clause and a clause to the effect that no child by a former marriage should take any benefit under the settlement without bringing into hotchpot all sums of money and benefits received under an earlier settlement.

Eve, J., held that the children took life interests only in the freeholds on the ground that he could not find any sufficient intention to be gathered from the settlement that they were to be entitled in fee simple.

The Court of Appeal held that the limitations in trust having been perfected and declared by the settlor they must have the same construction as in the case of legal estates executed, and therefore in the absence of words of limitation the children took life interests only in the freeholds. The court, however, differed from Eve, J., as to the grounds of his decision, and held that if it had been necessary to decide the point there were sufficient indications in the settlement of an intention that the children should take absolute interests in the freeholds.

Lord Sterndale, M.R., emphasised the distinction between executed and executory trusts, and said " . . . it must be remembered that there is no doubt that the trust in this case is executed and not executory, and therefore the court has not the power which it would have in the case of an executory trust of moulding the conveyance so as to carry out the settlor's intention."

His lordship went on to say that he agreed with the proposition that " if the intention is clear no particular words are necessary to create a trust of equitable estates such as were necessary in the case of legal estates," but he did not agree with the argument advanced that " therefore whatever words were used the court could and would inquire into the intention and construe the deed accordingly." And in this connection his lordship quoted with approval a passage from " Lewin on Trusts," 12th ed., p. 125 : " But although technical terms be not absolutely necessary, yet where technical terms are employed they shall be taken in their legal and technical sense. Lord Hardwicke indeed once added the qualification ' unless the intention of the testator or author of the trust plainly appeared to the contrary.' But this position has since been repeatedly overruled, and at the present day it must be considered a clear and settled canon that a limitation in a trust perfected and declared by the settlor, must have the same construction as in the case of a legal estate executed."

In *Re Arden* a lady, being a donee of a power appointed under her father's will over certain freeholds, by deed dated in 1896 appointed one third share of the hereditaments subject to her own life interest in trust for her daughter, her heirs, executors, administrators and assigns absolutely. In 1901 the donee executed a deed expressed to be supplemental to such appointment, in which it was recited that the appointor was desirous of appointing the residue then remaining unappointed of the said hereditaments, subject to her own life interest, among another daughter and a son, further exercised her power by appointing such residue, subject to her life interest therein, " in trust as to one fourth therein

for " the daughter " and as to three fourth shares therein for " the son " absolutely."

Clauson, J., held that the presence of the word " absolutely " showed that the appointment was not framed in strict conveyancing language, and his lordship said: " When strict conveyancing language is not employed it is sufficient that the instrument shall disclose as a matter of construction a clear intention as to the quantum of interest which is intended to be given." His lordship said that there was such an intention in that case and the appointment passed the fee simple, and he added: " But for the presence of the word ' absolutely ' the estates of the appointees would be life estates only."

Of course, in settlements executed since 1925 words of limitation are not required, even in respect of legal estates: L.P.A., 1925, s. 60.

Landlord and Tenant Notebook.

Rateability of Flats.

It is commonly assumed by people seeking residential accommodation that in the case of a house the tenant will be liable for rates but in the case of a flat the landlord will be bound to pay them. The latter assumption is not justified. In the absence of a lessor's covenant, there is no reason why the burden should not fall upon the tenant, and it may well be that some day an occupier of a flat in one of the numerous " courts," the number and size of which seem to increase hourly, will meet with an unpleasant surprise. He will then consult his tenancy agreement and see his solicitor, and realise that he should have consulted his solicitor before he ever saw his tenancy agreement. For if this contains no reference to liability for rates, he has no remedy; unless, perhaps, there are circumstances, such as correspondence or advertisements specifying a so-called " inclusive " rental, which may be a ground for rectification of the agreement.

The position was thrashed out long before flats attained their present popularity. In *Allchurch* v. *Assessment Committee and Guardians of Hendon Union* [1891] 2 Q.B. 436, C.A., the subject matter was the rateability of a building which may, for present purposes, be regarded as a miniature model of the modern mansion block. That is, there were but two storeys, but each was exclusively occupied by one individual on a separate (weekly) tenancy, each having his own rent book; there was one front door, but each tenant had a key; and it was customary for persons calling on the ground floor tenant to knock once, for those calling on the other man to knock twice. So, while there was no constant hot water, no lifts, and no uniformed porters, all the essentials of the present-day set of flats were before the tribunals which successively dealt with the question whether the authorities were entitled to rate both tenants jointly as occupiers of the building. And the Court of Appeal, which finally disposed of the matter, gave us some useful propositions. Thus, the old principle of " structural severance," evolved by the courts in Elizabethan times, had been deliberately done away with by the legislature. (*Cf.* the interpretation of " converted into separate and self-contained flats and tenements "—Increase of Rent and Mortgage Interest Restrictions Act, 1920, s. 12 (9)—in *Smith* v. *Prime* [1923] W.N. 131: not scattered, and containing within its own ambit all necessary accommodation.) Then, as neither tenant had any right to interfere with the occupation of the other of his part, there was no ground for the suggestion that they occupied jointly. And lastly, if this did mean more work and trouble for the officials concerned, that was what they were there for; their duties were not limited to examining the outside of a building.

On the other hand, a rate-book need not contain separate entries of separate or separable properties occupied by the same person: this was established in *Rawlence* v. *Guardians of Hursley Union* (1877) 3 Ex.D. 44, a claim by a firm of surveyors for work done at the request of the rating authority.

It may, of course, be said that the analogy I have drawn when discussing *Allchurch* v. *Hendon Union, supra*, breaks down when one comes to consider that in the case of the building concerned the landlord made his presence felt only when rent was due, whereas in the modern mansion block he has more intimate rights and obligations in the matter of attendance, care of approaches, supply of hot water and, sometimes, of meals. Such an objection is answered by reference to the even earlier decision in *R.* v. *St. George's Union* (1871), L.R., 7 Q.B. 90, in which the point was decided at the instance of the Mutual Tontine Westminster Chambers Association Ltd., a company whose litigious activities have done much to define the law relating to flats. The property consisted of seven blocks of flats. How novel was the arrangement can be judged from the length of the headnote to the report, the writer of which had to resort to comparison with chambers in the Inns of Court to illustrate his description. The company undertook the lighting of staircases and the supply of water to every flat or set of chambers, each of which had an entrance hall of its own. The seven outer doors were closed at night by porters employed by the company. It was the presence of the porters controlling the approaches that was the main argument in the rating authority's contention that there were but seven rateable hereditaments. The company, who by the tenancy agreements made themselves responsible for rates and presumably desired the advantage of immunity in respect of temporarily unlet flats, successfully appealed; and the old " outer door control " test, so often applied in connection with franchise, inhabited house duty, lodger-or-tenant, and other cases, was applied—but in the company's favour. " The question," said Cockburn, C.J., " is whether there is an occupation of a distinct and separate tenement by a person who inhabits a portion of a house or building, or whether he is merely an inmate under the landlord "; and as regards the porters, it was held that they were servants of the tenants if appointed by the company.

The same principle has been applied to offices: in *Whitehead* v. *Westminster Assessment Committee* (1908), 1 Konstam's Rating Appeals 77, though the tenants had no access to their premises at night or at week-ends, their chattels remained there and the various parcels accordingly constituted separate rateable hereditaments. The most recent authority on the point appears to be *Curzon* v. *Westminster Corporation* (1917), 86 L.J., K.B. 198, in which the tenant of the Prince of Wales' Theatre was held to be not liable to rates in respect of refreshment bars and cellars excepted from the demise.

Our County Court Letter.

THE RIGHTS AND LIABILITIES OF DOG OWNERS.

The above subject has been considered in three recent cases. In *Martin* v. *English*, at Bournemouth County Court, the claim was for £3 for veterinary services rendered, and the counter-claim was for £4 2s. 6d. in respect of treatment for a Pekinese dog after its return from the plaintiff. The plaintiff's case was that he treated the dog for mange in April and May, 1933, when he returned it cured, but there was a recurrence in August, when he again treated it for three weeks. Mange was difficult to cure, but he would have succeeded if given a free hand and sufficient time. The defendant's case was that the dog was scratching, owing to irritation of the skin through the plaintiff having applied too strong a dressing. Her veterinary surgeon admitted, however, that drastic treatment was necessary in order to kill the mange parasite, and it was difficult to make the treatment effective without being harmful. His Honour Judge Hyslop Maxwell remarked that no one could guarantee a cure for

mange, and there had been no negligence by the plaintiff. Judgment was therefore given in his favour on the claim and counter-claim with costs.

In *Dipple* v. *Jones*, at Coventry County Court, the claim was for £40 as damages in respect of injuries to forty sheep and lambs by the defendant's greyhound in November and December, 1933, and in March and April, 1934. The plaintiff's case was that the dog had been seen chasing the sheep, and the fact that several sheep had been worried, and left, showed that the damage was done by a dog, as a fox either buried the carcase, or took it right away, and always at night. The defendant's case was that not his, but other dogs (black and brown in colour) had been loose on the plaintiff's land, where the ewes had also been disturbed by a riding school in the lambing season, and also by night shooting. There was also a rabbit warren and this attracted foxes, by which the farm was overrun. His Honour Judge Drucquer observed that there was a conflict of evidence as to the number of foxes, but certain sheep had been killed by the defendant's dog. Judgment was therefore given for the plaintiff for £25 and costs. It transpired that the defendant had been ordered by the magistrates to keep his dog under control.

In *Fowler* v. *Mills*, at Bakewell County Court, the claim was for £8 in respect of injuries from a bite from the defendant's golden retriever in June, 1934. The plaintiff's case was that while walking out with her Scotch terrier she was attacked by the dog of the defendant, who was subsequently ordered by the magistrates to keep it under control. Evidence of *scienter* was given by a witness who had been attacked on a night in December, 1933, while wheeling a cycle, and his wife stated that in November, 1933, the defendant's dog had snapped at the tail of her fox fur. A submission was made for the defence that there was no evidence of ferocity towards human beings, and—as the two dogs had had a fight—the plaintiff might have been bitten by her own dog, which was on leash. The submission was overruled, and the defendant admitted that her dog had since been destroyed—but not because it was dangerous. Corroborative evidence was given as to its friendliness towards human beings, but His Honour Judge Longson held that the animal had manifested a tendency to bite mankind. Judgment was therefore given for the plaintiff, with costs.

DISTURBANCE OF RIGHT OF WAY.

A RIGHT to joint user of a path may exist, even if the leases of adjoining houses do not mention easements. In *Simmonds* v. *Newson and wife*, recently heard at Torquay County Court, the claim was for £50, as damages for nuisance, and for an injunction for the removal of a gate and padlock. The plaintiff, as occupier of "Thirlmere," claimed a right of way over the defendants' premises through an opening (7 feet 6 inches wide) in the party wall separating his house from "Leighton," occupied by the defendants. The plaintiff's case was that he had used the back entrance from 1915 until June, 1933, when it was obstructed, and corroborative evidence was given by a former tenant, and also (as regards the last five years) by a dustman. The defendants' case was that, having occupied their house since 1924, they had never seen anyone use the path, until the plaintiff did so (under a claim of right) five or six years ago. No notice was then taken, but, in consequence of the plaintiff's workmen using the path, an existing gate was locked by the defendants, and they had tried to keep it locked since 1932. Corroborative evidence was given by the defendants' former lodger, and by a lady who, over a period of forty-one years, had never seen anyone from the two houses using the pathway. His Honour Judge Wethered gave judgment for the plaintiff for £5 damages, an injunction and costs on Scale B. Compare *Liddiard* v. *Waldron* [1933] 1 K.B. 435, and a case which will appear under the above title in the "County Court Letter" in our next issue.

To-day and Yesterday.

LEGAL CALENDAR.

4 MARCH.—Chief Baron Turner died on circuit at Bedford on the 4th March, 1676, and was buried at Parndon Parva, where he had his seat.

5 MARCH.—On the 5th March, 1858, Jeremiah Carpenter, a farm labourer, was tried at the Hertford Assizes for the murder of a police constable who had been sent to arrest him for a robbery. The officer was last seen alive waiting for him on the road to his home, and three days later was found in a pond with his throat cut. The time the prisoner left his work, his lateness in arriving home, the bloodstains on his clothes and on his knife, and certain severe injuries which he bore, all seemed to point to the prisoner's guilt. Nevertheless, the jury acquitted him, adding only that it was a case of great suspicion.

6 MARCH.—On the 6th March, 1840, Joshua Ashby, formerly a banker, was tried at the Old Bailey for stealing some silver spoons from the Junior United Service Club. He was a member of several fashionable clubs which from time to time had missed large quantities of plate. The jury convicted him and he was sentenced to seven years' transportation. No less than sixteen pawnbrokers were called to produce an immense number of spoons and forks disposed of by the prisoner and now identified by the secretaries of various clubs.

7 MARCH.—On the 7th March, 1617, Sir Henry Yelverton, the Solicitor-General, became Attorney-General in place of Bacon who had received the Great Seal, but before he made sure of the appointment, he had to break through a network of court intrigues. First, the King had declared openly that he should have the place, and on the strength of this the warrant had been made out. Then he had heard that Buckingham "did crosse him and . . . shewed himself openly against him" despite the remonstrations of the friends of the prospective Attorney-General. An interview with Buckingham revealed that he thought himself slighted in not having been consulted in the matter, and "after much exchange of words and a verye kind conclusion of all speeches" the incident closed and the King signed the warrant.

8 MARCH.—Sir Thomas Tyrrell died at his seat at Castlethorpe, in Buckinghamshire, on the 8th March, 1672, at the age of seventy-eight. He was buried in the church there under a stately monument. During the Civil Wars he had held a commission as a cavalry colonel on the parliamentary side. Towards the end of the Commonwealth, he was a Commissioner of the Great Seal, and after the Restoration he was appointed a Justice of the Common Pleas.

9 MARCH.—Piracy in its flourishing days was rarely romantic, and when Nicholas Wingfield and Adams Hyde were tried at the Old Bailey on the 9th March, 1759, the spoil they were charged with seizing was twenty casks of butter valued at £20. They were prosecuted by the Attorney-General and the Solicitor-General "at the expense of the Crown, in order to vindicate the honour of the nation," for there were international complications, the ship they had piratically boarded being Dutch. Wilmot and Noel, JJ., tried the prisoners, who were convicted and sentenced to death.

10 MARCH.—On the 10th March, 1831, Michael Lundy, an Irish labourer, was tried at the Lincoln Assizes for the murder of his father-in-law. After working all day for a farmer, they had been left to sleep in his granary half a mile from the farm. About 9 o'clock the prisoner disturbed the household with cries of "murder," arriving barefooted and half dressed. He told a strange tale of an attack by a tall sinister individual, and when the barn was searched his father-in-law was found dead with an axe buried in his head. Some minute bloodstains were found on the prisoner, and despite evidence of good character, he was convicted.

THE WEEK'S PERSONALITY.

Although he represented Essex in Cromwell's second and third Parliaments, Edward Turner was never more than a moderate republican. He welcomed the Restoration wholeheartedly, became King's Counsel and Attorney-General to the Duke of York, and took part in the prosecution of the regicides. He reached his zenith when, as Member of Parliament for Hertford, he was elected Speaker of the House of Commons. In this capacity he distinguished himself principally by the eloquent adulation of his speeches to the throne. This courtly exercise earned him at various times treasury warrants for free gifts of £2,000, £5,000 and £4,000. Then came the breath of scandal. The Commons detected him in the acceptance of a trifling gift from the East India Company and he had to resign. He had not been found sufficiently upright to fill the Speaker's chair, so it was decided to make him a judge, and thus, in 1670, he became Lord Chief Baron of the Exchequer, holding the office until his death nearly six years later. His portrait hangs at the Guildhall among those of the other judges who sat to try the cases of disputed ownership arising out of the Great Fire of London. His reputation seems to have rested on his oratory rather than on his law.

IMPERSONATION.

It is reported that a partner in a well-known firm of London solicitors has recently been impersonated in Liverpool and other parts of the north of England in connection with the so-called "Fazackerley millions," and it is to be hoped that means will soon be found to abate the nuisance. Similar annoyances have not in the past been altogether unknown in the legal world, and one of the most amusing caused some trouble to the future Mr. Baron Gurney. When he was at the height of his practice at the Bar, he had an absolute double in a rather unscrupulous Old Bailey practitioner who was sometimes mistaken for him. Thus, on one occasion, a Yorkshireman came up to London with an important case in which he insisted on employing Gurney. So impatient was he to secure his services that even before the name had been marked on the brief, he took it from his attorney to hand it to the great advocate in person. Unfortunately, he met the double who took the brief and pocketed the fee without a moment's hesitation. He soon found out the mistake and tracked him down again, but, before he could say a word, the pseudo Gurney said: "I have read your brief quite through and the consultation shall take place in an hour's time." Indignantly the client demanded back his brief and his fee. The brief was returned, but the fee he never saw again.

THE VAQUIER CASE.

It was a very strange coincidence that there died recently, within a few days of each other, the licensee of the "Blue Anchor" at Byfleet—the first to die since Jean Pierre Vaquier poisoned his predecessor, in 1924—and Superintendent Boshier, who arrested the murderer and gave evidence at the trial before Mr. Justice Avory, at the Guildford Assizes. It was possibly the most extraordinary case ever heard in that peculiar court—an entertainments-hall converted into a tribunal for the duration of the Assizes whenever the King's Justices visited Surrey. The Frenchman obviously failed to appreciate the peril in which he stood. Perhaps the atmosphere of restraint and reserve so characteristic of our courts gave him the impression that his affairs were going well. He appeared in court daily, his hair and beard perfumed with violet and carefully brushed. He assumed the attitude of an interested spectator, taking copious notes of the evidence, joking when he was amused. When a witness described himself as a builder and undertaker, the prisoner observed to the interpreter: "Ah! He houses them above and below ground!" He resented not being able to take a greater personal part in the proceedings. His story in the witness-box was told with a calm imperception of its incredibility. He was amazed at the verdict of "Guilty," and after sentence of death, let loose a torrent of abuse at the learned judge and the jury.

Notes of Cases.

House of Lords.

Powell *v.* Streatham Manor Nursing Home.

The Lord Chancellor, Lord Blanesburgh, Lord Atkin, Lord Macmillan and Lord Wright. 28th February, 1935.

NEGLIGENCE — SURGICAL OPERATION — NEW TRIAL — DAMAGES—FUNCTIONS OF COURT OF APPEAL.

This was an appeal by William Norman Powell and his wife ordering a judgment of Horridge, J., in favour of Mr. and Mrs. Powell to be set aside and entered for the respondents in the action by Mr. and Mrs. Powell for damages for personal injury done to Mrs. Powell by negligence of the respondents' servants or agents. Mrs. Powell entered the respondents' nursing home as a paying patient and on 20th January, 1930, the operation of hysterectomy was performed on her. The appellants' complaint was that the respondents' servant, a sister at the home, caused injury to Mrs. Powell by the negligent use of an instrument. The defendants denied the negligence and contended that the injury arose in the course of the operation. Horridge, J., decided the case on Mrs. Powell's evidence. On appeal by the defendants the Court of Appeal allowed the appeal, and Mr. and Mrs. Powell now appealed to the House of Lords.

THE LORD CHANCELLOR, in giving judgment, said the case set up by the respondents was that the injury must have been done by the surgeon in performing the operation. That case was completely contradicted by the evidence. What should be the attitude of the Court of Appeal towards the judgment in the court below in such circumstances as the present? It was true that the appeal was by way of re-hearing, but the Court of Appeal did not re-hear witnesses. It only read the evidence and re-heard counsel. Neither was it a re-seeing court. In the case of an appeal to the Court of Appeal, the onus was on the appellant that the appeal should be allowed. On an appeal against a judgment of a judge sitting alone, the Court of Appeal would not set aside such judgment unless the appellant satisfied them that the judge was wrong and his decision ought to have been the other way. There was certainly jurisdiction in the Court of Appeal to reconsider the facts in the way they did reconsider them and to come to an opposite conclusion. The judge of first instance was not the possessor of infallibility and, like other tribunals, there might be occasions when he went wrong on a question of fact, but first and last and all the time he had the great advantage which was denied to the Court of Appeal of seeing the witnesses and watching their demeanour. It was hardly possible to conceive a case where a judge of first instance was in a better position than the Court of Appeal to judge where the truth lay than the present case. In circumstances like the present the Court of Appeal would be slow to upset the judgment arrived at by the judge who both saw and heard the persons who gave evidence. Having regard to the facts, it was quite impossible to say that the judge was wrong in coming to the conclusion he arrived at, and he (the Lord Chancellor) would allow the appeal and restore the judgment of Horridge, J.

The other noble and learned Lords gave judgment to the same effect.

COUNSEL: *H. G. Robertson* and *S. K. de Ferrars*; *Henry C. Dickens* and *C. Gordon Thompson.*

SOLICITORS: *Bircham & Co.*; *Hempsons.*

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

Court of Appeal.

Robinson *v.* Graves.

Greer, Slesser and Roche, L.JJ.
28th February and 1st March, 1935.

Contract—Portrait-painter—Portrait Commissioned—Skill and Labour—Not Sale and Purchase of Goods—Sale of Goods Act, 1893 (56 & 57 Vict. c. 71), s. 4.

Appeal from a decision of Acton, J. (78 Sol. J. 536).

The plaintiff, a portrait-painter, brought an action against the defendant for 250 guineas, the price of a portrait which he had been commissioned by him to paint. Acton, J., held that the agreement fell within s. 4 of the Sale of Goods Act, 1893, and that, inasmuch as there was no written memorandum, it was unenforceable.

Greer, L.J., allowing the appeal, said that an agreement to paint a portrait was not in the ordinary use of the English language a bargain for the sale and purchase of goods, but an undertaking to exercise skill. The contract was not within s. 4 of the Sale of Goods Act, 1893. This was supported by the observations of Martin, B., and Pollock, C.B., in *Clay* v. *Yates*, 1 H. & N. 73. *Lee* v. *Griffin*, 30 L.J. Q.B. 252, so far as the facts were concerned, afforded no help in the decision of the present case. Nothing was said in it to throw doubt on the views expressed in *Clay* v. *Yates*. The judgment of Blackburn, J., indicated that the substance of the contract had to be regarded. If the substance of the contract was for the exercise of skill and labour in the production of an article, material being ancillary, that would be a contract for work and labour.

Slesser and Roche, L.JJ., agreed.

Counsel: *Mayer*, K.C., and *Fennell*; *S. Gates* and *Stogdon*.

Solicitors: *L. T. Halliday*; *Whitelock & Storr*.

[Reported by Francis H. Cowper, Esq., Barrister-at-Law.]

Court of Criminal Appeal.

Rex *v.* Haddon.

Avory, J., MacKinnon and Greaves-Lord, JJ.
25th February, 1935.

Criminal Law—Recognizances—Breach—Sentence—Appeal—Procedure.

This was an application by Clarence Guy Gordon Haddon for leave to appeal against a sentence of twelve months' imprisonment in the second division passed on him by Atkinson, J., after breach of a recognizance. Haddon was convicted before Charles, J., about a year ago of uttering threatening letters addressed to H.M. the King in which he alleged that he was the illegitimate son of the late Duke of Clarence, and was bound over to come up for judgment if called on within three years, and to abstain from repeating or causing others to repeat the allegation. The present application was based on alleged irregularity of the notice to come up for judgment.

Avory, J., said that Charles, J., took a lenient view of the matter in binding the applicant over, but on the 17th January, 1935, the applicant was brought before Atkinson, J., on a notice in accordance with the terms of his recognizance. The procedure laid down in *Rex* v. *Smith* [1925] 1 K.B. 603, was strictly followed. Evidence was given on oath by three witnesses, who said that the applicant on three different dates last year had called at the offices of a political association with a view to seeing the local M.P. He saw the secretaries, and in the course of conversation distinctly repeated the allegation that he was the illegitimate son of the Duke of Clarence, and produced an album containing photographs and press cuttings to support his statement. Evidence was also given that he had been warned by the police and had disregarded the warning. In those circumstances Atkinson, J., had no option but to pass on him the sentence appropriate to his original offence. The application was refused.

Counsel: *A. E. McCloskey*, for the applicant; *G. D. Roberts*, for the Crown.

Solicitors: *David Nelson*; *Director of Public Prosecutions*.

[Reported by Charles Clayton, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Clayton *v.* Kearsey.

Horridge, J. 19th February, 1935.

Fatal Accidents Act—Widow's Claim—Writ not Issued within Twelve Months—Action for Damages for Negligence Against Solicitor—Nominal Damages.

In this case Mrs. Ellen Clayton, a widow, claimed to recover from Mr. Harold Thomas Kearsey, solicitor, damages for alleged professional negligence. The plaintiff was riding pillion on her husband's motor-cycle on the evening of the 25th September, 1932, when they were knocked off the machine in a collision with a motor car owned by a Mr. Richard James Shaw. Her husband died, and she was in hospital for a considerable time. The plaintiff said that she instructed Mr. Kearsey to make a claim against Mr. Shaw for damages for the injuries she had suffered and the loss of her husband. She alleged that because of the negligence of the defendant the writ was not issued until after the lapse of the twelve months allowed by the Fatal Accidents Act for the instituting of proceedings. There was no reflection on Mr. Kearsey personally, it was stated, but he was sued because, if there had been negligence, which was denied, it was on the part of employees. As the onus was on the plaintiff to establish that she would have recovered damages had her action been tried, his lordship heard evidence on the question. It was stated that one of the insurance companies concerned had made the plaintiff an *ex gratia* payment of £400 and certain costs.

Horridge, J., said that it was now admitted by counsel for the defendant, that Mrs. Clayton was entitled at any rate to nominal damages, as she might have recovered as against Mr. Shaw had she sued him. It was quite clear, however, that there was no probability of any judgment obtained by her against Mr. Shaw being of the least good, and therefore the defendant was right when he said that the plaintiff could have got no money out of Mr. Shaw, although the insurance company had paid her an *ex gratia* payment in respect of her own injuries. In the circumstances the plaintiff was entitled to nominal damages to the extent of 40s. It was stated on behalf of the defendant that £50 had been paid into court. Judgment was entered for the plaintiff for 40s. damages, without costs.

Counsel: *Neville Laskie*, K.C., and *E. C. Morey*, for the plaintiff; *R. K. Chappell*, K.C., and *E. J. Sutcliffe*, for the defendant.

Solicitors: *A. Wood & Co.*; *C. Butcher & Simon Burns*.

[Reported by Charles Clayton, Esq., Barrister-at-Law.]

Land *v.* Burton and Others.

Greaves-Lord, J. 20th February, 1935.

Contract — Employment — Partnership — Deposit as Earnest of Good Faith — Money Misappropriated — Action for Recovery.

In this action Percy Henry Land claimed from H. E. Burton, E. H. H. Holroyd, John F. Caie, and H. J. Richards, £150 received by the defendants to the use of the plaintiff. The plaintiff, who saw an advertisement in a daily newspaper to the effect that a partner was required in an old-established transport concern, called at the offices in London and subsequently paid £150, it being verbally agreed that a firm called Burton & Co. should hold the money as security and as an

earnest of his good faith during such time as the transport firm employed and paid him a salary of £4 a week. The £150 was to become immediately repayable should the firm fail to continue the employment. The plaintiff had not been employed or paid any salary, and he now claimed the return of the £150. Of the four defendants Burton and Richards were in prison, and Holroyd had consented to judgment, saying that the agreement was entered into by Burton without his (Holroyd's) knowledge, and that he had received no part of the £150. Counsel for Caie said that he was really trapped in the same way as the plaintiff, and this was one of those unfortunate cases in which the court would have to decide which of two innocent men should suffer. The question was whether Caie was a partner in Burton & Co. at the material time, and if he was not, whether he knowingly suffered himself to be held out as a partner. He pleaded in his defence that in December, 1933, he entered into a purported deed of partnership, the consideration being £250, of which he paid £150 forthwith. Caie alleged that he was induced to execute the deed by fraud, and it was argued for him that in law there never was a partnership.

GREAVES-LORD, J., said that in December, 1933, Burton induced Caie to enter into a deed of partnership with him in a business described as that of estate agents, surveyors and valuers. In a very short time Caie found out that that was a bogus business and he took steps to sever himself from Burton. The question was whether Caie was liable as a defendant, it being admitted throughout that Caie was a perfectly innocent party. In his (his lordship's) opinion Caie was not liable. The only circumstances under which a partner continued in partnership after attempting to dissolve was if the remaining partner did something which was within the apparent scope of the partnership. He did not think that receiving a deposit in this way as a guarantee of good faith with a firm seeking to employ, was in the ordinary course of business of theirs as estate agents, surveyors and valuers. He did not think that that transaction which took place was within the apparent scope of that type of partnership. Throughout the whole of that transaction Caie and the plaintiff never came into contact at all, and Caie knew nothing of the plaintiff until the action was brought. Judgment for the defendant Caie, with costs, and for the plaintiff against the other defendants, with costs.

COUNSEL: *Cyril Salmon*, for the plaintiff; *S. Parnell Kerr*, for Caie.

SOLICITORS: *Samuel Tonkin, Booth & Co.*, agents for *C. F. Walch*, Bolton; *Piper, Smith & Piper*.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

In the Matter of Jean Crichton, an Infant.

Talbot and Hilbery, JJ. 1st March, 1935.

Habeas Corpus—CHILD—LEFT WITH PROPRIETRESS OF SCHOOL—FEES PAID—CLAIM BY MOTHER FOR RETURN OF CHILD—WISHES OF PARENT—WELFARE OF CHILD.

This was an appeal by Mrs. Edith Bennett MacLean from an order of Atkinson, J., in Chambers, refusing, on the return of a writ of *habeas corpus*, to make an order for the return to the appellant of her infant daughter, Jean Crichton, aged eleven years. When three weeks old Jean was placed with the respondent, Mrs. Annie Primrose Hinckes, the proprietress of a home and school for children. Mrs. MacLean paid £65 a year for Jean's maintenance till August, 1930. She was then unable to continue the payments, but Mrs. Hinckes, having grown fond of Jean, did not wish to part with her, and kept her without payment till August, 1931, when Mrs. MacLean resumed payments at the rate of £48 a year till 1933, when, owing to illness, they again ceased. Mrs. Hinckes desired to keep Jean altogether, but Mrs. MacLean absolutely refused to consent to that. Mrs. Hinckes applied to a court of summary jurisdiction for an adoption order, to which Mrs. MacLean refused to consent. Mrs. MacLean applied for a writ of *habeas corpus*. On the return of the writ, Atkinson, J., saw the child and the adult parties privately. His lordship, in refusing to make an order, stated that the child had told him certain facts which had occurred while she was spending her holidays with her mother; she was obviously frightened of her mother and had no affection for her, and he would not make an order directing the child to return to her mother forthwith. He thought that the best course was to direct the child to remain with the respondent, but to spend her holidays with her mother. Mrs. MacLean appealed.

TALBOT, J., said that this was not a case in which the mother had simply ended her maternal care for her child. She had been in Government service abroad, but the time had now come when she could give Jean a home. He would have imagined that, apart from a court of law, anyone would say that it was a matter of course for the mother to have her. But Mrs. Hinckes had refused to give the child up, and an order had been made by Atkinson, J., refusing to let the appellant have her child. He (Talbot, J.) could not help feeling that the real reason was that the child was strongly desirous of remaining with Mrs. Hinckes and Mrs. Hinckes of keeping her. No one could help sympathising, but that was a consideration present in all cases. It would be impossible to administer that branch of the law with any justice if the unwillingness of the child and the foster-parent were regarded as a sufficient reason for depriving the parent of her right. The case of *In re Thain* [1926] Ch. 676, where, after a great deal of litigation, the court restored the child to her father, was in many ways analogous to the present. The facts told to the judge by the child in the present case could not be seriously damaging to the mother, since the judge ordered that the child should spend her holidays with her mother. It was clear, on the authorities, that the two considerations were the wishes of the parent and the welfare of the child. It was true that if the wishes of the parent were inconsistent with the welfare of the child the latter was the dominant consideration. Here there was nothing which came near to satisfying requirements which must be fulfilled before the mother's wishes could be overruled. She appeared always to have kept her rights alive. The appeal would be allowed.

HILBERY, J., gave judgment to the same effect.

Leave to appeal was granted.

COUNSEL: *S. Chapman*, for the appellant; *Richard O'Sullivan*, K.C., and *Harold Brown*, for the respondent.

SOLICITORS: *L. Bingham & Co.; Waller, Neale and Houlston*, for *Marsh & Ferriman*, Worthing.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Railway and Canal Commission.

H.M. Postmaster-General *v.* Southgate Corporation.

MacKinnon, J., Sir Francis Taylor, K.C., and Sir Francis Dunnell. 28th February, 1935.

LOCAL GOVERNMENT—TELEPHONES—UNDERGROUND SYSTEM—ERECTION OF TELEGRAPH POLES—STREET AMENITIES.

This was an appeal by H.M. Postmaster-General from a decision of Mr. Tudor Rees, sitting as deputy county court judge of the Wood Green County Court, that the objection of the Southgate Corporation to the erection of certain telegraph poles should be upheld. The Postmaster-General, in pursuance of his statutory powers, proposed to extend the telephone service within the borough of Southgate, and for that purpose desired to place telegraphic lines over and across, and to erect four poles in, certain streets in the borough. By s. 3 of the Telegraph Act, 1878, a condition precedent to the execution of that work was the obtaining of the consent of the corporation. The Postmaster-General duly applied for that consent, and served the appropriate notices on the corporation. The corporation refused to give their consent, and at that time gave no reason for their refusal. The difference between the

parties was accordingly referred for determination to the deputy county court judge under s. 4 of the Act of 1878. At that hearing the corporation put forward the following grounds for withholding their consent: (*a*) That an underground system was more appropriate in the circumstances; (*b*) that an overhead system depreciated the value of the property in the immediate vicinity of the poles; and (*c*) that the poles and overhead wires were a source of danger, and disfigured and adversely affected the amenities of the district. The Postmaster-General contended that the difference in the respective costs of the two systems was such as to render the underground system imprudent. The county court judge made an award in favour of the corporation. The Postmaster-General now appealed.

MacKinnon, J., said that before the commissioners the objection of the Southgate Corporation to the poles had been based solely on the ground of amenity. The streets with which the application was concerned consisted of little houses of the type that were erected by builders without the assistance of an architect and without the slightest knowledge of anything which led to beauty in architecture. If any of the streets concerned could be said to be a thing of beauty he would eagerly accede to the desire not to impair that beauty by the erection of telegraph poles, but, with regard to the streets under consideration, he did not find that there was in fact any sufficient beauty to warrant such a decision. He was of opinion that the deputy county court judge was wrong in his decision, and that the appeal should be allowed.

Sir Francis Taylor, K.C., and Sir Francis Dunnell gave judgment to the same effect.

Counsel: *The Attorney-General* (Sir Thomas Inskip, K.C.) and *Harold Murphy* for the Postmaster-General; *R. M. Montgomery*, K.C., and *J. Ramsay Willis* for the Southgate Corporation.

Solicitors: *Solicitor to Post Office*; *The Town Clerk*, Southgate.

[Reported by Charles Clayton, Esq., Barrister-at-Law.]

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Mr. James Arthur Fairclough has been appointed Assistant Solicitor in the Town Clerk's Department at Wigan, to succeed Mr. George Brewis, who has received an appointment to the Gloucestershire County Council. Mr. Fairclough was admitted a solicitor in 1933.

Obituary.

The Hon. O. W. HOLMES.

The Hon. Oliver Wendell Holmes, an Associate Justice of the United States Supreme Court for nearly thirty years, died at Washington, on Wednesday, 6th March, at the age of ninety-three. He was admitted to the Bar of Suffolk County, Massachusetts, in 1867. He was an Associate Justice of the Supreme Court of Massachusetts from 1882 to 1899, and Chief Justice from 1899 to 1902. He was then translated to the United States Supreme Court where he was an Associate Justice until his retirement in 1932. He was made an Honorary Bencher of Lincoln's Inn in 1931. An appreciation appears at p. 169 of this issue.

Mr. F. GRAY.

Mr. Frank Gray, former Liberal member for Oxford City, died at sea recently when returning from South Africa, at the age of fifty-four. The only son of the late Sir Walter Gray, several times Mayor of Oxford, he was educated at Rugby and was admitted a solicitor in 1903. He retired in 1916. In 1922 he was elected member for Oxford City and was appointed a Liberal Whip.

Mr. P. A. S. RUSTON.

Mr. Philip Augustus Sowerby Ruston, solicitor, senior partner in the firm of Messrs. A. Harold Ruston & Son, of Chatteris, Cambridgeshire, died on Thursday, 28th February, at the age of forty-four. Mr. Ruston, who was educated at Charterhouse, was admitted a solicitor in 1913. He succeeded to the practice on the death of his father, Mr. A. H. Ruston, about six years ago. He was solicitor to the Chatteris Urban District Council.

Parliamentary News.

Progress of Bills.

House of Lords.

Bootle Extension Bill.
Read Second Time. [5th March.

Clacton-on-Sea Pier Bill.
Read First Time. [5th March.

Gloucester Corporation Bill.
Read Second Time. [5th March.

Herring Fishery Bill.
In Committee. [5th March.

Metropolitan Police (Borrowing Powers) Bill.
Read First Time. [5th March.

Ministry of Health Provisional Order (Cumberland and Lancaster) Bill.
Reported, without Amendment. [5th March.

Ministry of Health Provisional Order (Gloucester and Warwick) Bill.
Reported, without Amendment. [5th March.

Ministry of Health Provisional Order (Holland and Kesteven) Bill.
Reported, without Amendment. [5th March.

Ministry of Health Provisional Order (Holland and Lindsey) Bill.
Reported, without Amendment. [5th March.

Ministry of Health Provisional Order (Leicester and Warwick) Bill.
Reported, without Amendment. [5th March.

Regimental Charitable Funds Bill.
Read Third Time. [28th February.

Voluntary Hospitals (Paying Patients) Bill.
Read First Time. [28th February.

House of Commons.

Clacton-on-Sea Pier Bill.
Read Third Time. [4th March.

Coventry Canal Navigation Bill.
Read Third Time. [6th March.

Government of India Bill.
In Committee. [5th March.

Increase of Rent and Mortgage Interest (Restrictions) Bill.
Reported, with Amendments. [5th March.
Medway Lower Navigation Bill.
Read Third Time. [6th March.
Metropolitan Police (Borrowing Powers) Bill.
Read Third Time. [1st March.
National Gallery (Overseas Loans) Bill.
Read Second Time. [1st March.
Oxford Canal Bill.
Read Third Time. [6th March.
Post Office (Amendment) Bill.
Reported, with Amendments. [5th March.
Post Office and Telegraph (Money) Bill.
Reported, without Amendment. [1st March.
Regimental Charitable Funds Bill.
Read First Time. [5th March.
Rochdale Canal Bill.
Read Third Time. [6th March.
Salmon and Freshwater Fisheries Bill.
Read Second Time. [4th March.

Questions to Ministers.

CORONERS: LAW AND PRACTICE (COMMITTEE OF INQUIRY).

Mr. TINKER asked the Home Secretary whether he is now in a position to give the names of the persons who will constitute the committee of inquiry into the subject of coroners' inquests and also the terms of reference?

Sir J. GILMOUR: Yes, Sir. The Right Honourable Lord Wright has consented to act as chairman of the committee and the remaining members are:

Sir Archibald Bodkin, K.C.B.,
Sir E. Farquhar Buzzard, Bt., K.C.V.O.,
Mr. Digby Cotes-Preedy, K.C.,
Sir Arthur Hazlerigg, Bt.,
Mr. George A. Isaacs,
Mr. W. Rutley Mowll, and
Mrs. Margaret Wintringham.

The terms of reference of the committee are:

"to inquire into the law and practice relating to Coroners, and to report what changes, if any, are desirable and practicable." [28th February.

Societies.

The Solicitors' Managing Clerks' Association.

DIVORCE.

At a meeting of this Association held in Inner Temple Hall on 1st March, Sir BOYD MERRIMAN took the chair and Mr. THOMAS BUCKNILL delivered a lecture on Divorce in which he suggested a number of reforms. He criticised the present financial arrangements after the various decrees have been pronounced. Under a recent Act by which a petition may be filed to vary marriage settlements after decree *nisi* and before decree absolute, orders may be made for permanent maintenance and variation of settlements before decree absolute to take effect as from decree absolute, but this Act is, he said, only declaratory of a right which has always existed. A more frequent exercise of the right would help to prevent the unpleasant squabble that arises, at or about the time when the decree absolute is due to be pronounced, between the man who is anxious for the decree in order that he may marry someone else and the woman who is conscious of the fact that she and the children have been left to fend for themselves. The guilty party, he pointed out, could not apply to have the decree made absolute and the bride-to-be generally had a fairly shrewd idea of the extent of her beloved's bank balance and was not too anxious that it should be unduly depleted. In many cases it was the greatest grievance on the part of the wife that she should be compelled to free her husband before she knew where she stood financially and what was going to be done about the marriage settlement. If despatch were used, there was ample time between decree *nisi* and decree absolute in which to adjust all financial difficulties to the satisfaction—if any ever existed—of all parties.

Under the present law a wife could, after divorce, obtain an order directing her husband to pay maintenance to her during their joint lives and further maintenance for the children only during their minorities. The petition for permanent maintenance had to be filed at or about the time of the decree, and there was no right to file another original petition at any time, but only a petition to vary an order directing the husband to pay maintenance during the joint lives. If, two or three years afterwards, the husband inherited a large fortune from his father, having in the meantime married his financially-expectant bride, the wife could only apply to increase the order to pay during the joint lives, but could never apply to have part of her late husband's fortune secured so as to give her an income for the rest of her life, and she could never get one penny of it settled on the children of the marriage. Mr. Bucknill considered that she should have the right at any time after decree absolute to apply for secured maintenance, and for a settlement on the children of part of her husband's fortune whenever it accrued to him, and especially without any limitations occasioned by the minority of the children.

A wife who proved cruelty could obtain a judicial separation and could obtain an order for permanent alimony during the joint lives of herself and her husband with maintenance for the children during their minorities; she never had a chance of getting any allowances for herself or them after his death, whatever his income. If he deserted his wife she could have secured periodical payments during the joint lives of herself and her husband, but still only maintenance for the children during their minorities. It was an extraordinary position that periodical payments could be secured, whereas permanent alimony could not. A wife, therefore, could never have provision made for her after the husband's death, but by s. 191 of the Judicature Act, 1925, the court could order the settlement of the property of a guilty wife for the benefit of the innocent husband and of the children of the marriage. In divorce, judicial separation and restitution the husband got his part of the wife's fortune for life and the children got the capital settled on them as well.

Mr. Bucknill suggested that it would be a wise thing if the law as to permanent maintenance and periodical payments, and the maintenance of children, were strengthened. In any case, he considered that it ought to have power to make orders to continue during the lives of the innocent parties, and to provide for the maintenance of children with appropriate security. It should have complete discretion in any class of decree as to the period during which the allowances should be payable, the security which should be given and the variability thereof. If the court had appropriate powers there would be less tendency for a petitioner wife to hold up her application for decree absolute in order to extort better terms from her husband.

Mr. Bucknill also suggested that the grounds for divorce should be investigated fully in all their aspects by a judge with power to grant a decree if he thought fit; decree absolute would be pronounced by another judge after a second investigation.

The Hardwicke Society.

A meeting of the Society was held on Friday, 1st March, at 8.15 p.m., in the Middle Temple Common Room, the President (Mr. A. Newman Hall) in the chair, when the Haldane Club were the guests of the Society. Mr. R. S. T. Chorley (H.C.) moved: "That this House would welcome the establishment of a Ministry of Justice." Mr. Granville Sharp (H.S. ex-President) opposed. Mr. E. S. Watkins (H.C.) spoke third; Mr. C. E. Scholefield (H.S.) spoke fourth. There also spoke Mr. Pritt, Mr. Llewellyn Thomas, Miss Scott Stokes, Mr. O. H. Cooke, Mr. Ungoed Thomas, Mr. N. F. Stogden, Mr. J. A. Petrie and Mr. Norman Wiggins. The hon. mover having replied, the House divided, and the motion was lost by four votes.

United Law Clerks' Society.

The 103rd anniversary festival of this Society will be held on Monday, the 18th March next, and the following letter has been circulated by The Right Honourable Lord Tomlin of Ash to a large number of members of the Profession:—

House of Lords,
S.W.1.
February, 1935.

Dear Sir,

The Committee of the United Law Clerks' Society has done me the honour of asking me to preside at their annual dinner which is to be held at the Connaught Rooms on Monday, the 18th March next.

I need not remind you of the benefits which the Society seeks to provide for members and non-members in both branches of the profession.

It is enough to say that the aims of this old established and well-known Society are worthy of the support of us all.

There are, however, two further points which will, I am sure, justify my claiming your assistance.

First, there, is I think, no one of us connected with the law who has not now and has not in the past had many personal friends among those for whose benefit the Society

exists and we all know the value to the profession of the Law of the services rendered by those friends and by others in like positions with them.

Secondly, there is an essential unity among all those connected with the brotherhood of the Law which makes them glad to lend a hand where help is needed, and help is needed here.

If your engagements admit I hope you will give me the pleasure of your support at the dinner.

Should you not be able to attend, a donation to the funds of the Society to testify to your sympathy with its work would be much appreciated, as the Committee desire to raise a sum which will enable them to go forward with confidence.

Yours sincerely.

TOMLIN.

The Society's address is 2, Stone Buildings, Lincoln's Inn, London, W.C.2.

Legal Notes and News.

Honours and Appointments.

The President of the Probate, Divorce and Admiralty Division has appointed Mr. BERTRAM LONG, M.C., barrister-at-law, to be one of the Registrars of the Principal Probate Registry. Mr. Long was called to the Bar by the Inner Temple in 1912.

Mr. R. F. G. THURLOW, solicitor, of March, who has for some time acted as Deputy Clerk to the Isle of Ely County Council, has been appointed Clerk in the place of Colonel C. E. F. Copeman, who has retired. Mr. Thurlow was admitted a solicitor in 1928.

Mr. HENRY GRAHAM BARROW, Assistant Solicitor to Hammersmith Metropolitan Borough Council, has been recommended for appointment as Prosecuting Solicitor to Newcastle-on-Tyne City Council, to succeed Mr. A. C. D. Ensor. Mr. Barrow was admitted a solicitor in 1929.

Professional Announcements.

(2s. per line.)

Mr. WILLIAM F. GILLHAM will open an office and practise on his own account at 12, South-square, Gray's Inn (Tel. : Chancery 7397 (2 lines)) on Monday, 11th March.

Wills and Bequests.

Mr. Thomas Brownson, solicitor, of Hyde, Cheshire, left £20,915, with net personalty £14,402.

Mr. Henry Walters, retired solicitor, of Llandulas, Abergele, left £21,597, with net personalty £17,743.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.	EMERGENCY ROTA.	APPEAL COURT No. 1.	GROUP I. MR. JUSTICE EVE. Non-Witness.	GROUP I. MR. JUSTICE BENNETT. Witness. Part I.
	Mr.	Mr.	Mr.	Mr.
Mar. 11	Blaker	Andrews	Ritchie	*More
,, 12	More	Jones	Andrews	*Ritchie
,, 13	Hicks Beach	Ritchie	More	*Andrews
,, 14	Andrews	Blaker	Ritchie	More
,, 15	Jones	More	Andrews	*Ritchie
,, 16	Ritchie	Hicks Beach	More	Andrews

DATE.	GROUP I. MR. JUSTICE CROSSMAN. Witness. Part. II.	GROUP II. MR. JUSTICE CLAUSON. Witness. Part. II.	GROUP II. MR. JUSTICE LUXMOORE. Witness. Part I.	MR. JUSTICE FARWELL. Non-Witness.
	Mr.	Mr.	Mr.	Mr.
Mar. 11	Andrews	*Blaker	*Jones	Hicks Beach
,, 12	*More	Jones	*Hicks Beach	Blaker
,, 13	Ritchie	*Hicks Beach	*Blaker	Jones
,, 14	*Andrews	Blaker	*Jones	Hicks Beach
,, 15	More	*Jones	Hicks Beach	Blaker
,, 16	Ritchie	Hicks Beach	Blaker	Jones

* The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 14th March, 1935.

	Div. Months.	Middle Price 6 Mar. 1935.	Flat Interest Yield. £ s. d.	‡Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	114½	3 9 10	3 1 8
Consols 2½%	JAJO	84½xd	2 19 2	—
War Loan 3½% 1952 or after	JD	105½	3 6 6	3 2 4
Funding 4% Loan 1960-90	MN	117	3 8 5	3 0 5
Funding 3% Loan 1959-69	AO	104½	2 17 5	2 15 0
Victory 4% Loan Av. life 29 years	MS	114xd	3 10 2	3 5 0
Conversion 5% Loan 1944-64	MN	122½	4 1 8	2 1 0
Conversion 4½% Loan 1940-44	JJ	112½	4 0 0	2 4 9
Conversion 3½% Loan 1961 or after	AO	105¾xd	3 6 4	3 3 9
Conversion 3% Loan 1948-53	MS	105½	2 16 10	2 10 0
Conversion 2½% Loan 1944-49	AO	102xd	2 9 0	2 5 0
Local Loans 3% Stock 1912 or after	JAJO	95xd	3 3 2	—
Bank Stock	AO	364½	3 5 10	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	88½	3 2 2	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	95½	3 2 10	—
India 4½% 1950-55	MN	114	3 18 11	3 6 0
India 3½% 1931 or after	JAJO	94xd	3 14 6	—
India 3% 1948 or after	JAJO	84xd	3 11 5	—
Sudan 4½% 1939-73 Av. life 27 years	FA	121	3 14 5	3 6 3
Sudan 4% 1974 Red. in part after 1950	MN	117	3 8 5	2 13 6
Tanganyika 4% Guaranteed 1951-71	FA	116	3 9 0	2 15 0
L.P.T.B.4½% "T.F.A." Stock 1942-72	JJ	112	4 0 4	2 12 2
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	110	3 12 9	3 6 1
*Australia (C'mm'nw'th) 3¾% 1948-53	JD	102	3 13 6	3 11 3
Canada 4% 1953-58	MS	111	3 12 1	3 3 8
*Natal 3% 1929-49	JJ	101	2 19 5	—
*New South Wales 3½% 1930-50	JJ	100	3 10 0	3 10 0
*New Zealand 3% 1945	AO	100xd	3 0 0	3 0 0
†Nigeria 4% 1963	AO	116	3 9 0	3 3 0
*Queensland 3½% 1950-70	JJ	103	3 8 0	3 4 10
South Africa 3½% 1953-73	JD	107	3 5 5	2 19 10
*Victoria 3½% 1929-49	AO	99xd	3 10 8	3 11 10
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	96	3 2 6	—
*Croydon 3% 1940-60	AO	100xd	3 0 0	3 0 0
Essex County 3½% 1952-72	JD	108	3 4 10	2 18 4
Leeds 3% 1927 or after	JJ	96	3 2 6	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	108xd	3 4 10	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	85½	2 18 6	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	95	3 3 2	—
Manchester 3% 1941 or after	FA	97	3 1 10	—
*Metropolitan Consd. 2½% 1920-49	MJSD	101	2 9 6	—
Metropolitan Water Board 3% "A" 1963-2003	AO	100xd	3 0 0	3 0 0
* Do. do. 3% "B" 1934-2003	MS	99	3 0 7	3 0 8
Do. do. 3% "E" 1953-73	JJ	103	2 18 3	2 15 8
†Middlesex County Council 4% 1952-72	MN	116	3 9 0	2 17 0
† Do. do. 4½% 1950-70	MN	118	3 16 3	3 1 3
Nottingham 3% Irredeemable	MN	96	3 2 6	—
Sheffield Corp. 3½% 1968	JJ	108	3 4 10	3 2 2
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	112	3 11 5	—
Gt. Western Rly. 4½% Debenture	JJ	124½	3 12 3	—
Gt. Western Rly. 5% Debenture	JJ	138½	3 12 2	—
Gt. Western Rly. 5% Rent Charge	FA	131½	3 16 1	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	127½xd	3 18 5	—
Gt. Western Rly. 5% Preference	MA	115xd	4 6 11	—
Southern Rly. 4% Debenture	JJ	111	3 12 1	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	111½	3 11 9	3 7 0
Southern Rly. 5% Guaranteed	MA	128½xd	3 17 10	—
Southern Rly. 5% Preference	MA	115xd	4 6 11	—

*Not available to Trustees over par. † Not available to Trustees over 115.
‡In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.

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THE
PRINCESS ELIZABETH OF YORK HOSPITAL FOR CHILDREN
(FORMERLY EAST LONDON HOSPITAL FOR CHILDREN)
SHADWELL, LONDON, E.1

Earnestly requests the help of Solicitors when preparing Charitable Bequests.

LEGACIES

are a valued and much needed help in our great work.

This Hospital which is isolated from the natural sources of charity, has for over 70 years been serving the sick and suffering children of the East End of London, and during that period has treated over 1,400,000 little patients.

Patrons : THEIR MAJESTIES THE KING AND QUEEN.
Chairman : BRIG.-GENERAL SIR HILL CHILD, C.B., C.M.G., D.S.O., M.V.O

ANNUAL REPORT and full particulars of the work gladly supplied by the Secretary, SIR EDWARD PENTON, K.B.E. (Phone : East 5068.)

THE SOLICITORS' JOURNAL

ESTABLISHED 1857. PUBLISHED WEEKLY.

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THURSDAY NEXT, 14TH MARCH, at 2.30 o'clock, at the LONDON AUCTION MART, 155, Queen Victoria-street, E.C.

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By order of Trustees.

STIMSON & SONS

(in conjunction with

E. WATSON & SONS)

will Sell by Auction the following secure Investments:—

FREEHOLD PREMISES, 150, FLEET-STREET, comprising 5 floors and basement used as shop and offices. Leased for 80 years from 1905 at £470 per annum.

LEASEHOLD GROUND RENT of £250 PER ANN. arising from important block of business premises and offices, 13 and 14, WALBROOK. Term 35½ years unexpired at 25th March, 1935.

LEASEHOLD GROUND RENT of £90 PER ANN. arising from Corner Business premises, 48, Jewin-street, and 2, Jewin-crescent, Aldersgate-street. Term 33¾ years.

LEASEHOLD GROUND RENTS OF £100 PER ANN. arising from 16 and 18, Jewin-crescent. Term 30¾ years.

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RYE LANE, PECKHAM.

By order of Executors.

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will sell by auction the following Secure Investments:—

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FREEHOLD GROUND RENT OF £130 PER ANN. secured upon 54A, Rye-lane, forming part of the extensive departmental stores of Marks & Spencer, Ltd.

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By Order of the Mortgagees.

HAMPSTEAD,

affording a sound and attractive Security for the investment of Trust and other Funds.

"PALACE COURT,"

FINCHLEY ROAD, HAMPSTEAD.

A magnificent Building of Five Floors, with imposing Elevation, splendidly equipped with passenger and goods lifts, constant hot water service and fire escape staircase, comprising:—

TWO IMPOSING BLOCKS
of
FIFTEEN RESIDENTIAL FLATS AND FIVE SHOPS.

Let and producing

PER £5,500 ANNUM.

Extensive Frontages of 192 feet to Finchley-road and 92 feet to Frognal-lane.

The Property is held on Lease for a term of 99 years from 1932, at a Ground Rent of £600 per annum.

To be offered for SALE by AUCTION by Messrs.

WARMINGTON & CO.,

at the London Auction Mart, 155, Queen Victoria-street, E.C.4, on Thursday, the 21st day of March, 1935, at 2.30 p.m. precisely.

Particulars and Conditions of Sale in course of preparation, and when ready may be obtained of Messrs. Andrew Walsh and Son, Solicitors, 7, King Edward-street, High-street, Oxford; and of the Auctioneers, 19, Berkeley-street, Piccadilly, W.1. 'Phones, Mayfair 3533-4.

WEST NORWOOD AND STRATFORD.

FREEHOLD GROUND RENTS.

amounting to £787 10s. 4d. per annum, well secured upon Private Dwelling Houses, Shop and Business Premises at Clive-road, Hamilton-road, Carnac-street, Chalford-road, WEST NORWOOD; and at Chatsworth-road, Hatfield-road, Idmiston-road, and Globe-road, STRATFORD. Messrs.

DRIVERS, JONAS & CO.

will offer the property by AUCTION in lots (unless previously sold by Private Treaty), at the London Auction Mart, 155, Queen Victoria-street, E.C.4, on Monday and Tuesday, the 1st and 2nd April, 1935.

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'Phone: City 1451 (3 lines). 6, POULTRY, E.C.2. Telegrams: "Invariably, Stock, London."

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THE VALUABLE FREEHOLD GROUND RENT OF

PER £2,000 ANNUM,

ARISING OUT OF A VERY FINE BLOCK OF SERVICE FLATS,

No. 20, CHESHAM PLACE, S.W.1,

OF THE GROSS RENTAL VALUE OF

£23,000 PER ANNUM.

LEASE 99 YEARS.

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CHELSEA.—Freehold Residence, No. 30, Sydney-street. Modernised, redecorated, 4 bed, 3 reception, &c. Room for garage. Vacant possession. Keys with Joint Agents, Messrs. WHEELER & ATKINS, 1, Sydney-street, S.W.3.

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SIDCUP.—Freehold Ground Rents £33 p.a. Nos. 12–22 (inclusive), Blackhorse-road. Reversion 7½ years.

DEPTFORD.—Freehold Ground Rents £127 p.a., 97–121 (odd) and 153–167 (odd), Creek-road. With early reversions.

WANDSWORTH.—Freehold Ground Rent £5 10s. p.a., No. 751, Wandsworth-road, S.W.8. Reversion 7¾ years.

Solicitors: Messrs. W. H. Matthews & Co., Central House, Finsbury-square, E.C.2.

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Solicitor: N. Mackover, Esq., 19, Jewin-street, E.C.1.

By Order of Trustees.

At the LONDON AUCTION MART, E.C.4, on THURSDAY, 21st MARCH, at 2.30 in one lot.

PERPETUAL RENT CHARGES amounting to £355 10s. PER ANNUM, payable by the Corporation of Ryde (I. of W.). Solicitors: Messrs. Halsey, Lightly & Hemsley, 32, St. James's-place, S.W.1, and Messrs. Fardell, Ryde (I. of W.).

PRELIMINARY NOTICE.

THE TENNYSON ESTATE, GRIMSBY.

Messrs. H. E. Foster & Cranfield are instructed by the Trustees to offer to Auction, at Grimsby, at an early date, in separate lots, unless previously sold by Private Treaty, as an entirety,

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FOR SALE BY AUCTION ON WEDNESDAY, 20TH INST.

A FINE FREEHOLD INVESTMENT.

38, 38a and 39, TOTTENHAM COURT RD.,

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WITHIN 300 YARDS OF OXFORD STREET,

and comprising

Important CORNER SHOPS and BUSINESS PREMISES

Let on full repairing lease and producing

£1,750 rising to £1,950 p.a. net.

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Printed in Great Britain by THE SOLICITORS' LAW STATIONERY SOCIETY, LTD., at "Oyez House," Fetter Lane, London, E.C.4, and Published at 29, Breams Buildings, E.C.4 (Phone: Holborn 1853). Agents—The United States and Canada: The Carswell Co., Ltd., 145-149, Adelaide Street West, Toronto 2, Canada; India: Higginbothams, Publishers, Mount Road, Madras; Australia and New Zealand: "The Times," 255a, George Street, Sydney, N.S.W. Saturday, 9th March, 1935.